UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 10 CR 268 (DLI)

:

-against- :

United States Courthouse
Brooklyn, New York

SHAUN TAYLOR :
TIMOTHY PINKNEY

July 1, 2014
Defendants. : 9:30 o'clock a.m.

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TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE DORA L. IRIZARRY
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

For the Government: LORETTA E. LYNCH
United States Attorney
BY: MATTHEW S. AMATRUDA
TALI FARHADIAN
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Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

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(The following occurred in the absence of the prospective jury panel.)

(Defendants present.)

THE CLERK: Criminal cause for jury selection, docket number 10 CR 268, United States versus Shaun Taylor and Timothy Pinkney.

Please state your appearances.

MR. AMATRUDA: Matthew Amatruda for the United States, with Special Agent Thomas McNally from the FBI.

THE COURT: Good morning to both of you.

MR. RINALDO: Paul Rinaldo and Carl Herman for Mr. Taylor.

Good morning, Judge.

THE COURT: Good morning. To the three of you, good morning.

MR. RUSSELL: Royce Russell, Richard Jasper, representing Mr. Pinkney.

MR. JASPER: Good morning.

THE COURT: Good morning to all three of you.

We are missing Ms. Farhadian who had to deal with something this morning. The parties have agreed to go ahead and move forward.

Once the prospective jurors come up, I will of course again have the parties introduce themselves, as we did yesterday. I will let them know that Ms. Farhadian will be here.

Just so that there is no undue attention, I will tell them that the lawyers may from time to time have to leave the courtroom for reasons that don't concern them and they shouldn't really pay attention to that.

Okay?

These are the 38 that were precleared, although after my review last night it is astonishing to me that a lot more of these people were not actually brought up for cause or for follow-up, given what I found.

(Ms. Farhadian enters courtroom.)

THE COURT: Parties, we have an update from the jury clerk.

Juror number 57 -- these are all relate to the ones who were coming up now, or supposed to be coming up now. Juror 57 thought she had to be here at 1:00 o'clock. Jurors 204 and 247 are not here. We don't know why. Numerous messages were left for those two and there have been no responses.

Just keep track --

MR. AMATRUDA: That's 57? 204?

THE COURT: 57, 204 and 247.

MR. AMATRUDA: Okay. Thank you.

THE COURT: Just so that you are aware, number 57 has issues anyway.

We are going to seat them in the same way as we did yesterday, except we are going to put them all over --

(Prospective jury panel enters.)

THE COURT: As you come in, start filling in the last row at the end. Walk all the way to the end. You can sit.

Please fill every available seat. You are not going to be there very long. Move all the way down. You can fit one more person in there, maybe two.

No. Please have them start sitting in the last row on the other side. From the first row, start sitting in the back, please, all the way to the end. That second row, please. On that second row, they can move down. Move down, please.

Can you sit on this side, please, if you don't mind, ladies?

Thank you.

You are not going to be there very long.

Ladies and gentlemen, good morning.

You've all been brought here to follow-up on the questionnaires that you filled out maybe a week or two-week ago. I guess it has been about a couple of weeks ago.

This is the case of United States versus Shaun Taylor and Timothy Pinkney. I know the last time you were here the parties introduced themselves to you. I am going to ask them to introduce themselves again to you.

On behalf of the government, please appearances.

MR. AMATRUDA: Matthew Amatruda and Tali Farhadian along with Special Agent Thomas McNally from the Federal Bureau of Investigation.

Good morning.

THE COURT: Thank you.

On behalf of Mr. Taylor?

MR. RINALDO: Paul Rinaldo and Carl Herman representing Mr. Taylor.

THE COURT: Thank you.

Mr. Taylor, would you mind standing up?

Thank you.

Good morning.

And on behalf of Mr. Pinkney?

MR. RUSSELL: Royce Russell and Richard Jasper on behalf of Mr. Timothy Pinkney.

MR. JASPER: Good morning.

MR. RUSSELL: Good morning.

THE COURT: Thank you very much.

As a reminder again, my name is Dora Irizarry. I am the judge who is going to be presiding over this matter.

To my right is one of my clerks, Jennifer Klein, and you have met Mr. Temidayo Aganga-Williams, who is sitting in the back. He's another one of my law clerks who will be assisting as well.

Remember that we are only going to address you by the number that was assigned to the questionnaire that you filled out. So we are going to be calling you to come in and start filling the seats here in the jury box and then as we go along we will start filling up the spaces in the well. This inner part of the courtroom is called the well of the courtroom. That's the jury box over to my left. Then we are going to proceed to follow-up with some of the responses that you gave on the questionnaires.

Please listen to your number and step up as you are being called.

THE LAW CLERK: We are going to fill the front row from this seat and then fill in this direction and then the following rows. We will start with juror number one.

Then number 6, number 13, 18, 21, 33. That's the first row.

Then starting in the first seat in the second row:

46, 53, 54, 61 -- number 57 is not here, correct?

THE COURT: Correct.

THE LAW CLERK: Okay. 77 and 85.

THE COURT: Can we just skip that seat for 57?

THE LAW CLERK: You want to leave it empty?

THE COURT: So we can have the chart.

THE LAW CLERK: Number 85, please start in the first seat in the next row.

THE COURT: Then can I have -- just move down one seat, thank you.

THE LAW CLERK: Okay. Next will be 94, 101, 107.

Please take the second seat in the third row. If it is easier, there is a door on this side as well.

I'm sorry. You are 94? Could take the seat --

THE COURT: You have to move all the way down. There you go. You are going to be in number order.

THE LAW CLERK: And then 119, please, and 121.

Then starting in the back corner seat, again, you will come around this way if it is easier, 139, 144, 156, 158, 165, 176.

Now we are going to call three people to sit in the front row here: 177, 178 and 179.

Then on this side, 180.

THE COURT: Can I just have you all move over just a little bit. I can't see the face of number 177.

THE LAW CLERK: And 223.

Judge, do you want to leave a space between them?

THE COURT: Yes.

THE LAW CLERK: Okay. And then you guys might have to reshuffle a little.

225 on the end and 240, 246. Leave a space. And then 251 and 252. If you can just move a bit.

Thank you.

Actually, we are going to -- you will be over here. She is 254 and then we are going to have 262.

Thank you.

THE COURT: All right. We are going to start with our juror number one.

Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You have been at your current job for about two months now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Were you working before that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Where were you working before that?

THE PROSPECTIVE JUROR: The same place, but under another company.

THE COURT: So you were working for another company.

Were you doing the same thing that you are doing now?

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: How long were you there?

THE PROSPECTIVE JUROR: Since August last year.

THE COURT: What do you do with respect to passenger service?

THE PROSPECTIVE JUROR: Everything; I have to make sure that all the passengers are taken care of before they take a flight. They have to be checked in; all the procedures that have to be followed in order for them to go on board; and make sure that the flight leaves on time.

THE COURT: You are one of those important people when we get to the airport. Having flown a little bit the past month, I appreciate the work that people in your position do.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: Thank you.

Have you been doing that kind of work consistently?

THE PROSPECTIVE JUROR: Yes, for the last 20-plus years.

THE COURT: Okay. But for different companies?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Your spouse or significant other you say is in security or public safety?

THE PROSPECTIVE JUROR: Yes.

THE COURT: In what way, for a private company or --

THE PROSPECTIVE JUROR: He works for the School District of Bay Shore.

THE COURT: He works for the school safety. Okay.

For the attorneys, as to question number 36, you mentioned that the daughter of a friend of yours was killed outside of a nightclub.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you know any details about what happened there, whether anybody was arrested?

THE PROSPECTIVE JUROR: Yes. They -- they allegedly person who did it was -- is still in jail now.

THE COURT: Okay. How long ago did that happen?

THE PROSPECTIVE JUROR: I believe almost four years now.

THE COURT: Has the case gone to trial or was he sentenced already, do you know?

THE PROSPECTIVE JUROR: I don't know the details. But I think so. I am not sure.

THE COURT: Have you talked to your friend about the way that her daughter's case was handled and her impressions about it?

THE PROSPECTIVE JUROR: No, not really.

THE COURT: Is there anything about that that you think would affect your ability to be fair and impartial in this case?

THE PROSPECTIVE JUROR: No. No, ma'am.

THE COURT: All right. Thank you.

Juror number six, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You told us that you have a masters degree. In what area?

THE PROSPECTIVE JUROR: International political economics.

THE COURT: International political economics? Oh my gosh, that sounds like a major mouthful, given how global everything is these days.

You decided to be a hair stylist maybe because that area is so full of major issues.

How long have you been doing that, you said?

THE PROSPECTIVE JUROR: Hairdresser? Maybe 20 years, 18.

THE COURT: Do you have your own place?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is it a big salon? Do you have a lot of chairs in your salon or are you a solo?

THE PROSPECTIVE JUROR: Actually, I don't have my own place right now. I've had my own place.

THE COURT: Okay.

THE PROSPECTIVE JUROR: So --

THE COURT: You are aware that this case is expected to go -- we are expecting it until around mid-August sometime. We do take into consideration a lot of things. Remembering, of course, I want to remind everybody, that we are not going to sit on Fridays. It will be a four-day work week for us. We are going to have this Friday, July 4th, off, in this case.

Given that and given that you are working for yourself, is this going to be a financial hardship for you?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. You have mentioned that your dad used to work in the courts. Do you know in what capacity?

THE PROSPECTIVE JUROR: Assistant DA.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: Assistant DA in Nassau.

THE COURT: He was an Assistant DA.

Do you know in what county?

THE PROSPECTIVE JUROR: Nassau.

THE COURT: In Nassau County.

For all 20 years?

THE PROSPECTIVE JUROR: Yes.

THE COURT: He's retired now or is he practicing now?

THE PROSPECTIVE JUROR: He's dead now.

THE COURT: I'm sorry:

THE PROSPECTIVE JUROR: So he is not practicing.

THE COURT: I'm sorry for your loss.

You did tell -- did you ever talk to him about the work that he did as an Assistant DA?

THE PROSPECTIVE JUROR: Very little.

THE COURT: Is there anything about the job that your father had that you think might affect your ability to be fair and impartial in this case?

THE PROSPECTIVE JUROR: No.

THE COURT: You mentioned -- for the attorneys this is question 35 -- that you have friends and family and some neighbors who have had issues with drugs. The charges here do concern allegations of distribution of crack cocaine, cocaine and heroin.

Is there anything about the issues of people that you know, possibly people close to you, with the fact that the defendants are accused of distributing drugs?

THE PROSPECTIVE JUROR: No.

THE COURT: Would that affect you in any way?

THE PROSPECTIVE JUROR: No.

THE COURT: Thank you.

Juror number 18, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: I'm sorry. 14. I skipped.

THE PROSPECTIVE JUROR: 13.

THE COURT: 13. I'm sorry.

You may have by accident -- I know there were a lot of questions on this questionnaire -- left out an answer to question number 13.

What is the highest grade that you completed in school?

THE PROSPECTIVE JUROR: Ten classes.

THE COURT: I can't hear you. I'm sorry.

THE PROSPECTIVE JUROR: I just finished school.

THE COURT: Just finished school?

THE PROSPECTIVE JUROR: Yes.

THE COURT: When?

THE PROSPECTIVE JUROR: In the Ukraine.

THE COURT: What is the highest grade that you completed? How far did you go in school, what is the highest grade?

THE PROSPECTIVE JUROR: Basic.

THE COURT: I'm sorry? You studied in the Ukraine?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I'm sorry. I wasn't able to hear you.

Okay. So you studied in the Ukraine. How many years did you go to school in the Ukraine?

THE PROSPECTIVE JUROR: Eleven.

THE COURT: Eleven. Okay.

I'm sorry. I wasn't understanding.

You say you are doing interior decorating now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is this your own business?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Your spouse or significant other is? Working in the business with you.

THE PROSPECTIVE JUROR: A hum.

THE COURT: Is this the work that you have been doing pretty much all of your life?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You heard me mention the length of the trial here. Is this something that would affect the running of your business?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Or is your spouse going to be able to handle it?

THE PROSPECTIVE JUROR: I am self-employed.

THE COURT: You are self-employed. What does that mean?

THE PROSPECTIVE JUROR: I --

THE COURT: I can't hear you. You have to speak a little louder. Can you just repeat that?

THE PROSPECTIVE JUROR: I am just going to lose my clients.

THE COURT: You are going to lose your clients?

THE PROSPECTIVE JUROR: Yes.

THE COURT: If you don't work, you don't get paid?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Thank you.

Now juror number 18.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You mentioned -- and for the attorneys this is question 16 -- that your husband is a retired police officer.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did your husband ever talk about the work that he did as a police officer?

THE PROSPECTIVE JUROR: No.

THE COURT: How long has he been retired now?

THE PROSPECTIVE JUROR: He retired 2006.

THE COURT: Do you know whether he ever worked in the area of narcotics?

THE PROSPECTIVE JUROR: He worked in the gang unit.

THE COURT: He worked --

THE PROSPECTIVE JUROR: In the gang unit.

THE COURT: Is there anything at all about the work that he did as a police officer that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No, Your Honor.

THE COURT: One of the instructions that I am going to be giving to the jury, and this applies to everyone, so it's important that you listen very carefully to the questions that I am asking your fellow jurors because if it relates to you, then we should know about it, and one of the instructions that I am going to give the jury at the end of the case is that the testimony of police officers or any other law enforcement agents is to be treated in the same way as the testimony of any other witness.

In other words, you don't give the testimony of a person in law enforcement, whether they are with the NYPD or some other agency, more weight or less weight just because of the position that they hold.

Would you be able to follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

And juror 21, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: I wanted to ask, you were raised in India. How long have you been in the United States?

THE PROSPECTIVE JUROR: Thirty years.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: Thirty years.

THE COURT: Thirty years?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You have just recently started doing work as a home health aide?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Were you working before that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What were you doing before that?

THE PROSPECTIVE JUROR: I was a city worker. I was a case manager.

THE COURT: For which department?

THE PROSPECTIVE JUROR: In the city department.

THE COURT: I see.

In doing that work as a caseworker -- how long did you do that?

THE PROSPECTIVE JUROR: Eleven years.

THE COURT: You did that for 11 years.

In doing this work as a caseworker, did you come in contact with people who had abused drugs?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You heard me mention that this case does involve allegations of distribution of drugs. Is there anything about the work that you did, and having come in contact with people who went through addiction and the charges, that would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: I'm sorry for your loss. You mentioned that you are a widow.

Did your husband work while he was alive?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What did he do for a living?

THE PROSPECTIVE JUROR: He was in Chemical Bank. He was a programmer.

THE COURT: He was a programmer.

As a home health aide, how do you work for a steady set of people? Do you go to people's homes? Do you have different people that you visit on different days? How does that work?

THE PROSPECTIVE JUROR: No. I do for the Holocaust survivor, the company.

THE COURT: You work for a company and they send you to the various clients?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I see.

You have been there for two months?

THE PROSPECTIVE JUROR: Yes.

THE COURT: If you sat on this trial, I guess we are looking at approximately six to seven weeks, more or less, how would that -- would that affect your employment in any way?

THE PROSPECTIVE JUROR: I have to call my supervisor and explain everything that I am here.

THE COURT: Okay. You did explain it to your employer?

THE PROSPECTIVE JUROR: No. Last night, when I got the phone call, I called him and told him that I will come here and if I select then I have to call him again.

THE COURT: Okay. Did he say what that would mean for your job?

THE PROSPECTIVE JUROR: No.

(Continued on next page.)

THE COURT: Okay. Will you be getting paid if you are here for that time?

THE PROSPECTIVE JUROR: I don't know, ma'am.

THE COURT: You will recall, when I asked everybody to fill out the questionnaires, I asked you to make sure and go back to your employers and find out what your situation was with your job, because we are in the process of selecting people, and once you are selected to serve on this jury, I'm not going to entertain any applications about scheduling problems or hardships other anything of that kind. Okay. Thank you.

Juror No. 33, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You mentioned that you work in electrical designing?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did I understand that right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What is that, exactly?

THE PROSPECTIVE JUROR: I am working for the Long Island Rail Road, and I work with them for the transit system.

THE COURT: That's what you meant by "public service." So, you are working for the Long Island Rail Road?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You've been doing this job for about eight months now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What were you doing before that?

THE PROSPECTIVE JUROR: Before, I work in a consulting company.

THE COURT: You were in a consulting company?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Doing that same kind of work?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Was this a private company?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And how long were you with them?

THE PROSPECTIVE JUROR: Eight years.

THE COURT: Eight years?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: You are welcome.

THE COURT: And Juror No. 46, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You told us that you work in construction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What in particular do you -- I hope I read that right, construction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And what kind of construction do you work in?

THE PROSPECTIVE JUROR: Mains in the street.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: Gas mains in the street.

THE COURT: Oh. Gas mains in the street.

How long have you been doing that?

THE PROSPECTIVE JUROR: Eight years.

THE COURT: Eight years. Okay. Have you been doing construction --

THE PROSPECTIVE JUROR: I've been with the company for thirteen, that particular job for eight.

THE COURT: Okay. I guess construction jobs can sort of vary in many different ways in the way you people are assigned jobs and things like that, as I've learned over the years in talking to fellow prospective jurors. Will your company pay you for jury service?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Am I correct that some construction jobs just pay by the particular job you're working on; right, in terms of some construction?

THE PROSPECTIVE JUROR: I'm a weekly, hourly employee.

THE COURT: All right.

And you mentioned that your wife or your spouse does not work outside of the home. Did she ever work outside of the home?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What did she do?

THE PROSPECTIVE JUROR: Fashion merchandise.

THE COURT: Fashion merchandising?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Now, she's got the important job of taking care of the baby?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Just sort of generally -- and this is something, again, it's in that area that applies really to everyone -- there is a possibility that this case could get media attention. It may not. But one of the instructions that I'm going to be giving every time that we break, even now during this process of jury selection, is that the jury cannot pay attention, look at, listen to, read any kind of account that may be given about this case or anyone connected with this case. That includes any of the potential witnesses or the locations that may be mentioned during the course of this case. And you can't do any kind of research or independent investigation concerning this case or any matter connected with this case, and that includes something as simple as what trial procedures are, because I'm going to be giving the jury instructions about trial procedure, about the law and about the evidence and how you will be considering it.

Would you be able to follow those instructions?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

Juror No. 53. Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You mentioned that you had been in the Army?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Were you ever stationed outside of the United States?

THE PROSPECTIVE JUROR: Yes, I have.

THE COURT: Where were you stationed?

THE PROSPECTIVE JUROR: Germany.

THE COURT: Did you ever, while you were serving in the Army -- how long did you serve, again?

THE PROSPECTIVE JUROR: I was there for about three and a half years.

THE COURT: About three and a half years?

THE PROSPECTIVE JUROR: Yes.

THE COURT: When you served in the Army, did you ever serve in the capacity of military police?

THE PROSPECTIVE JUROR: No.

THE COURT: Did you ever participate in any kind of military tribunal?

THE PROSPECTIVE JUROR: No.

THE COURT: You mentioned that you have a brother in the legal field?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you know what kind of work your brother does?

THE PROSPECTIVE JUROR: He practices -- he's self-employed. He does mainly like landlord/tenant.

THE COURT: Is he an attorney?

THE PROSPECTIVE JUROR: Yes, he is.

THE COURT: Your brother is an attorney. He does like civil cases; right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Not anything to do with criminal law?

THE PROSPECTIVE JUROR: No.

THE COURT: Is there anything at all about the work that your brother does that would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: You mentioned -- for the attorneys, it's question 25 -- that your son was arrested for not allowing his bag to be searched on the way to school?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How old was he when that happened?

THE PROSPECTIVE JUROR: Twenty, twenty-one; about twenty-one.

THE COURT: About twenty or twenty-one years old?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I'm going to ask you to keep your voice up a little bit.

THE PROSPECTIVE JUROR: I'm a little hoarse.

THE COURT: I'm sorry. Did he actually get taken in and arrested and processed?

THE PROSPECTIVE JUROR: Yes, he was.

THE COURT: Was he held overnight?

THE PROSPECTIVE JUROR: Yes. The arraignment was the next morning.

THE COURT: What happened to the case?

THE PROSPECTIVE JUROR: It was dismissed.

THE COURT: It was dismissed?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How do you feel about the way the whole situation was handled?

THE PROSPECTIVE JUROR: I don't have any particular feelings about it. It was just, you know, like a random search at the subway, and my son is a little stubborn. So, it was just practice.

THE COURT: Is there anything about what happened to your son that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: Juror No. 54.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: Good morning. And you were in the Army, and you were in the Army for how long?

THE PROSPECTIVE JUROR: I was a reserves for four years.

THE COURT: As a reservist, did you ever serve in a military police capacity?

THE PROSPECTIVE JUROR: No.

THE COURT: Did you ever participate in any military tribunal?

THE PROSPECTIVE JUROR: No.

THE COURT: You have a son who was in the Marines?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Always a Marine; right?

THE PROSPECTIVE JUROR: Always a Marine.

THE COURT: Do you know if he ever served in a military police capacity?

THE PROSPECTIVE JUROR: No.

THE COURT: Do you know whether he served in any military tribunal?

THE PROSPECTIVE JUROR: No.

THE COURT: Was he assigned outside of the United States?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And did he actually see combat?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And did you?

THE PROSPECTIVE JUROR: No.

THE COURT: That would have been during the Vietnam War. You didn't get to see any combat?

THE PROSPECTIVE JUROR: No.

THE COURT: Sort of in general, do you have any feelings about the criminal justice system, whether it's fair or it's not fair, any thoughts?

THE PROSPECTIVE JUROR: No. Basically, fair.

THE COURT: Thank you.

Juror No. 57 is not here.

Juror No. 61, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: In connection -- for the lawyers, it's questions 16, 24 and 25, that seem to be interrelated.

You mentioned that you were the victim of some violence at the hands of your husband, I gather; correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And I gather from your responses that you called the police?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How do you feel about the way the police handled your situation?

THE PROSPECTIVE JUROR: They responded quickly when I called them, because it happened twice. So, this was the second time.

THE COURT: How long ago did that happen?

THE PROSPECTIVE JUROR: The second time, six months.

THE COURT: Six months ago?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did your husband get arrested?

THE PROSPECTIVE JUROR: Yes, he did.

THE COURT: Was he prosecuted? Did he go to trial?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did you have to testify at the trial?

THE PROSPECTIVE JUROR: No.

THE COURT: And did he get sentenced?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, he's presently in jail, I understand?

THE PROSPECTIVE JUROR: Yes, he is.

THE COURT: How do you feel about the way the prosecutors handled your situation?

THE PROSPECTIVE JUROR: They did a good job. I'm in favor, because since I married my husband, he's been violent to me, and they did a good job.

THE COURT: Is there anything at all about the experience that you had, sort of in total, that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: Would you be able to follow that instruction that I will give about police testimony, that they are not to be given -- believed more or believed less just because they are police? Did you hear?

Would you be able to follow the instruction that I will give that police are not to be believed more or believed less just because they are police officers?

THE PROSPECTIVE JUROR: I understand.

THE COURT: You mentioned that your brother is in the Navy, career Navy?

THE PROSPECTIVE JUROR: Yes, twenty years.

THE COURT: Do you know whether he has ever served as a military police officer?

THE PROSPECTIVE JUROR: No. No.

THE COURT: Do you know whether he has ever participated in any kind of military courts of any kind?

THE PROSPECTIVE JUROR: No.

THE COURT: You mentioned, also, that your husband had a problem with alcohol?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And even though alcohol is legal, it's still a form of drug addiction, and you've heard that this case involves allegations of the distribution of drugs. Is there anything about those charges that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: In question number 46, the first part of it, that question -- just to remind you -- said that "At this point in time, do you have any opinion about whether any of the defendants are guilty of the crimes charged?," and you said "Yes," but you did not explain.

So, first, let me remind all of the jurors that the defendants have been charged by way of indictment. The indictment is not evidence of anything. They are presumed innocent. They have pled not guilty, and that presumption of innocence stays with them until the very, very end of the case, until that time that the jury has heard all of the evidence, I have given the jury the instructions on the law, and the jury has had time to discuss the case, and the jury decides unanimously, all together decides that the government has sustained its burden of proving the guilt of the defendants beyond a reasonable doubt. So, until that point in time, the defendants are entitled to that presumption of innocence.

So, understanding that, do you have any opinion at this point as to whether or not the defendants are guilty or not?

THE PROSPECTIVE JUROR: Right now, they are not guilty.

THE COURT: And sort of the same thing: You answered "Yes" to the following questions, but did not have any explanation, so let me remind you of what those questions are.

Number 49 -- and this is, also, for anyone in the jury who may have some issues. This is the time to raise it -- and "The evidence in this case may include information provided or obtained by individuals who participated in some of the crimes charged in the indictment, and these witnesses have pled guilty and are testifying pursuant to cooperation agreements with the government in the hope that their own sentence will be -- sentences will be reduced. It is permissible for the government to present such witnesses for a jury to rely on their testimony in reaching a verdict." Obviously, the jury would have to make a decision, each juror has to make a decision for him or herself, as to whether or not you believe the testimony.

Do you have any beliefs or opinions that would affect your ability to evaluate the testimony from such witnesses fairly and impartially?

THE PROSPECTIVE JUROR: No.

THE COURT: And then question 50 reads as follows: "The evidence in this case may include audio recordings of conversations and meetings recorded secretly without the knowledge of some of the participants in the conversations. Before such evidence is received at trial, the Court" -- me -- "will have ruled that the evidence was lawfully obtained and may be presented at the trial."

Do you have any feelings about the use of audio recordings that were secretly but lawfully recorded that might affect your ability to consider such evidence fairly?

THE PROSPECTIVE JUROR: I don't think so.

THE COURT: Thank you.

And just sort of what I call the catchall question, you had left it blank, but I want to make sure that we covered anything, is there any reason at all that you think you cannot serve, why you think you cannot serve on this jury?

THE PROSPECTIVE JUROR: I left it out?

THE COURT: It could have been a mistake. It was a long questionnaire. I want to make sure that there isn't something.

THE PROSPECTIVE JUROR: No. No.

THE COURT: Thank you.

Juror No. 77. Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You told us that you work in banking?

THE PROSPECTIVE JUROR: Yes, I did.

THE COURT: How long have you been doing that work, or are you retired now?

THE PROSPECTIVE JUROR: Well, they let us go from the bank in 2001, after 9/11.

THE COURT: Is that the last time that you worked?

THE PROSPECTIVE JUROR: No.

THE COURT: So, where are you working now?

THE PROSPECTIVE JUROR: Well, I started my own business where I am doing sublimation.

THE COURT: What is that?

THE PROSPECTIVE JUROR: Sublimation is like taking an image -- I take the image from my camera and I put it on the computer, and then I can use special ink and special paper, and I can put that on a mug, a tie, a plate, a napkin holder, I do mouse pads, key chains, ladies' hair barrettes, bracelets. I do stuff like that, and I go and sell at flea markets and all kinds of shops, things that they have. Like during the summertime, I'm out working, and wintertime.

THE COURT: And so, do you do this every day?

THE PROSPECTIVE JUROR: Yes. I make designs every day. I do the designs late at night, when something comes to me.

THE COURT: When you get inspired?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Of course, we're not going to work on Fridays, and so you would have that time to market your wares, so to speak, and on the weekends.

Would sitting on a jury of this length of time, into mid-August, would that be okay?

THE PROSPECTIVE JUROR: Sure.

THE COURT: Thank you very much.

THE PROSPECTIVE JUROR: You are welcome.

THE COURT: Juror No. 85. Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: So, what do you like to do in your spare time? We did ask you about news programs, but we didn't ask you about what you might do in your spare time.

THE PROSPECTIVE JUROR: I have kids, so I actually take them to the park and, you know, do stuff with them. When they are in school, my spare time is very limited, because I have to like do a lot of housework on my days off. So, I also like try to fit in the gym. That's what I do. That's about really it.

THE COURT: Aside from the news stuff, do you like to watch anything on particular?

THE PROSPECTIVE JUROR: Case Closed. It's a Spanish channel.

THE COURT: It's sort of like a court show?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I've seen it a couple of times.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Kind of like a Judge Judy type of show?

THE PROSPECTIVE JUROR: Right.

THE COURT: I watch her sometimes, too, not to plug the show. I do watch those every once in a while. And you understand, of course, that these shows, whether they are on Spanish TV or in the English language TV, or any other language TV, I don't know if they translate it into other languages or countries, they are really run for the dramatic effect. They may be real cases, but they are cases that are specially picked. They are very simple, they usually relate to civil matters, money disputes between people, that kind of a thing. Then the parties -- there's no jury like you all, it's just the judge, and the judge decides, and it all happens in half an hour or an hour, and that's it and it's done, and they squeeze in at least two cases in that time period. So, you understand that this process, of course, is not going to be like that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And I am not going to talk to people the way that they talk to the people --

THE PROSPECTIVE JUROR: I can understand that.

THE COURT: -- the way Judge Judy talks to the people.

THE PROSPECTIVE JUROR: I understand that.

THE COURT: Okay. Is there anything at all about this case that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: What are the kids going to be doing during the summertime? You have a twenty-one year old. Is the twenty-one year old with you?

THE PROSPECTIVE JUROR: Yes, she is. But she's working.

THE COURT: What's going to happen during the day for your two younger ones?

THE PROSPECTIVE JUROR: That was the thing. When I got picked and I came over here, the plan was that my children were going to go with their father -- he lives in Indiana -- for the summer, so I wouldn't have a problem with the baby-sitting. But unfortunately, one of them had to stay back, the twelve-year-old, to go to summer school, and the ten-year-old went with him. So, I'm trying to get her to summer school to July 30, and then arrange a flight for her to go and spend time with her father for August.

THE COURT: So, you have the younger one is staying for school?

THE PROSPECTIVE JUROR: Yes.

The twelve-year-old, the middle one, she's staying, and the ten-year-old is over there with her father.

THE COURT: How are you arranging for day care for the one who is going to be in school?

THE PROSPECTIVE JUROR: That's the thing. I'm committed. I'm trying. Being she's twelve, she will have to take the bus home and go to and from, and her grandmother lives about three blocks away from the school where she was selected to go, and that's how I'm trying to make arrangements.

THE COURT: So, you are trying to make arrangements. Do you know for sure whether that's going to work?

THE PROSPECTIVE JUROR: I'm trying to see, you know. That was not the plan.

THE COURT: I understand.

THE PROSPECTIVE JUROR: The plan was that they would go with their dad and I would have the free time to come here or go to work and they would be okay.

THE COURT: What about your job? Is your job going -- you would need to make arrangements anyway; right, to go to work?

THE PROSPECTIVE JUROR: Yes, no matter what.

THE COURT: No matter what?

THE PROSPECTIVE JUROR: No matter what.

THE COURT: Do you get paid when you are not working?

THE PROSPECTIVE JUROR: What do you mean?

THE COURT: In other words, does the hotel pay you for the days that you do not go to work?

THE PROSPECTIVE JUROR: No. Actually, if I'm off, I'm off, but only the days that on the schedule, they pay me.

THE COURT: So, do you work five days out of the week?

THE PROSPECTIVE JUROR: Yes. Most of the time, yes, five days.

THE COURT: Do you know what their jury service policy is?

THE PROSPECTIVE JUROR: Yes, they will pay me.

THE COURT: They would pay you for the entire time, even if it was six weeks?

THE PROSPECTIVE JUROR: They have to. That's their rules.

THE COURT: Okay. Thank you.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: Juror No. 94, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: And you mentioned that your spouse works for HHA. Can you tell us what that is?

THE PROSPECTIVE JUROR: Home Health Aides.

THE COURT: She's a home health aide?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Are you presently a cab driver?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And you've been doing that for two years?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Before that, you were a tailor. Did you work for yourself or for a company?

THE PROSPECTIVE JUROR: At times, I worked for myself. At times, I worked for a company.

THE COURT: As a cab driver, do you work every day?

THE PROSPECTIVE JUROR: I will work five or six days. At times, it varies.

THE COURT: Do you work for yourself or for a company?

THE PROSPECTIVE JUROR: I work for a company, but the cab is for myself.

THE COURT: You basically use the cab for the company?

THE PROSPECTIVE JUROR: It's my vehicle. I work from the base.

THE COURT: The base sends you the customers?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you get paid for the days that you don't work?

THE PROSPECTIVE JUROR: For the days I go to work?

THE COURT: The days that you do not work.

THE PROSPECTIVE JUROR: No.

THE COURT: You do not get paid?

THE PROSPECTIVE JUROR: I get paid according to how I work.

THE COURT: Okay. So, if you were to be chosen to serve on this jury and sit for six weeks, that six weeks that you would not get paid; right?

THE PROSPECTIVE JUROR: No. I get no pay.

THE COURT: Is that going to be a financial hardship for you?

THE PROSPECTIVE JUROR: Sure.

THE COURT: You also mentioned -- this is question 31 for the attorneys -- that you -- you said "Yes," that you knew people that worked in this federal courthouse, and that you know the U.S. Attorney, Loretta Lynch, and these prosecutors who are here, the Assistant United States Attorneys, Ms. Farhadian on the end, and Mr. Amatruda, Carter Burwell and Eileen Rosato. Do you know those people?

THE PROSPECTIVE JUROR: No. That was a mistake.

THE COURT: That was a mistake?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: Okay.

THE COURT: Juror 101. Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You've been at your current job for

about ten months?
THE PROSPECTIVE JUROR: Yes.
THE COURT: You're working in construction?
THE PROSPECTIVE JUROR: Right.
THE COURT: What are you doing in connection with construction?
THE PROSPECTIVE JUROR: I'm an inspector.
THE COURT: You are an inspector?
THE PROSPECTIVE JUROR: Yes.
THE COURT: Are you working for a specific company?
THE PROSPECTIVE JUROR: Yes, telephone.
THE COURT: You don't have to tell us. What were you doing before you did that job?
THE PROSPECTIVE JUROR: Same thing.
THE COURT: But a different company?
THE PROSPECTIVE JUROR: Different company.
THE COURT: The same question. Are you on salary with them; in other words, you get paid weekly or do you get paid by the job?
THE PROSPECTIVE JUROR: Biweekly.
THE COURT: Biweekly. Okay. So, if you were to serve here, you would still get your salary?
THE PROSPECTIVE JUROR: Yes.
THE COURT: And is there anything at all about this case that you think would affect your ability to be fair and

impartial here?

THE PROSPECTIVE JUROR: I have a problem with my leg now.

THE COURT: You have problems with your legs?

THE PROSPECTIVE JUROR: I have a problem with my knees, both knees.

THE COURT: You have a problem with both knees?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I can sympathize, because I do, too. You need to stand up every once in a while and stretch and so on?

THE PROSPECTIVE JUROR: Yes.

THE COURT: All right. Do you have any problems going up and down stairs and things like that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: In fact, in just a few minutes we're probably going to take a little bit of a break, anyway, so that everybody can sort of stretch their legs. But if we did that, you would be okay? Because we are going to have breaks. If you are chosen to serve on the trial, we'll have a break in the middle of the morning, and we have an hour break for lunch. You come back in the afternoon, and we have a break in the middle of the afternoon, and we'll break around 5:00, 5:30, depending on what's going on in the day. Would that be okay? You get a chance to stand up.

THE PROSPECTIVE JUROR: Yes, I can stand up.

THE COURT: Move around.

THE PROSPECTIVE JUROR: Yes. It would not be too much.

THE COURT: Juror 85. I just want to make sure of one thing. If you were able to make the arrangements with the grandmother, would you be able to stay until 5:30 or 6:00 o'clock? Not necessarily every day. My hope is if we do have a particular witness, that we can finish up that day and not have to start all over again the next day. We may go a little bit later. I'm not expecting that to happen every day. Would that present a problem?

THE PROSPECTIVE JUROR: No. That would be fine.

THE COURT: Thank you.

(Continued on next page.)

(CONTINUING)

THE COURT: May I see Counsel on the side, please with the reporter before we continue.

(Side-bar conference held on the record out of the hearing of the jury.)

(Side-bar.)

THE COURT: Juror Number 107, I had a concern about a compromise of anonymity, question number 19. There were a number of follow-up questions as well; had a close friend, gave a full name, retired FBI; last boss at work, gave the full name, retired Secret Service; colleague at work, gave the full name, retired NYPD detective; friend and neighbor, gave the full name, retired NYPD.

Listen, in the age of Google, there is no way that someone skilled, even semiskilled, could not find out where this juror lives and who he is, full identity.

MR. JASPER: Yes.

MR. RUSSELL: Do you just want to ask him some other questions so he is not pointed out?

THE COURT: Yes. The mom was mugged, the son was arrested for DUI. He has other issues; challenged not to do his own research; he has a home closing anyway in mid-August. So I could just go to the media question because it never hurts to emphasize that and then, talk about the home closing and then let it be.

ALL: Yes, yes.

THE COURT: And then, I think, is he our last one? When we finish that row, we will take a break. That will probably take to us 11:00 o'clock anyway.

ALL: All right.

THE COURT: So, that will be on consent?

ALL: Yes, Judge.

(Side-bar end.)

(In open court.)

THE COURT: So, let me just mention, every now and again I might have a conference with the attorneys on the side and that is because we are discussing either some scheduling matters or legal matters that do not concern the jury. Please, do not speculate about what we are discussing. They are just matters that do not concern the jury and you should not worry about that. Thank you for your patience.

Juror Number 107, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: I understand that you have the prospect of closing on a home.

THE PROSPECTIVE JUROR: We are having a home built for ourselves, a retirement home in North Carolina.

THE COURT: Nice.

THE PROSPECTIVE JUROR: Right now, it's in progress and it's due to be completed sometime around the end of July, beginning of August.

THE COURT: Okay. So, you are looking at the prospect of closing on that, hopefully, very soon.

THE PROSPECTIVE JUROR: Right, of moving there, actually.

THE COURT: Of moving, actually. Okay.

Would you be moving at around that time, as soon as it was done?

THE PROSPECTIVE JUROR: Yes, once it's ready, we would move.

THE COURT: Okay.

Are they pretty much on track?

THE PROSPECTIVE JUROR: Well, we had a slow start, but now it's sort of catch-up mode, he's actually going a little faster than he thought.

THE COURT: Okay.

With respect to the media, as I mentioned earlier, I am going to be instructing the jury that you cannot conduct your own research or investigation on the facts of the case or anything connected with the case by using the Internet to Google, as we say now, or do any other kind of research or use any other kind of research medium, whatever it is, to conduct other research or investigation on the defendants or the attorneys or the Court or anything connected with this case. You told us that you could follow the Court's instruction, but that it would be a challenge to do so.

Why is that?

THE PROSPECTIVE JUROR: Because I was very curious after being selected, but I didn't -- I kept myself from doing any Google searches.

THE COURT: Okay, well we like to hear that.

THE PROSPECTIVE JUROR: I was curious, but I didn't, I didn't do it. I stayed true to my word.

THE COURT: Good, thank you very much.

THE PROSPECTIVE JUROR: Right.

THE COURT: Thank you. Okay, thank you very much.

THE PROSPECTIVE JUROR: You're quite welcome.

THE COURT: And Juror Number 119, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: I understand that you are a retired corrections officer.

THE PROSPECTIVE JUROR: Yes.

THE COURT: In what facility or facilities did you work in? Were they State or Federal, that is all we need to know.

THE PROSPECTIVE JUROR: State.

THE COURT: State.

How long did you do that?

THE PROSPECTIVE JUROR: Eight years. Seven years, seven years.

THE COURT: Seven years.

Did you do any of other kind of work before that?

THE PROSPECTIVE JUROR: Since I was a kid? Menial jobs, yes.

THE COURT: Okay, all right.

And how long ago did you retire?

THE PROSPECTIVE JUROR: A long time ago.

THE COURT: A long time ago, okay.

The reason why I am asking was because I wasn't sure. You said retired 25 years, but I wasn't sure if that meant that you were in corrections for 25 years, so you've clarified that, thank you.

You have a son who is serving in the Air Force now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, he is presently in the Air Force.

THE PROSPECTIVE JUROR: Yes.

THE COURT: And out of the country.

Do you know whether he has served in the military police capacity?

THE PROSPECTIVE JUROR: No, I don't believe he did.

THE COURT: Or in any kind of tribunal?

THE PROSPECTIVE JUROR: It's possible, but I can't be sure.

THE COURT: Okay.

You also mentioned that you have a son in the NYPD. Is that the same son?

THE PROSPECTIVE JUROR: No, I don't have a son in NYPD.

THE COURT: Oh, okay. So, that may have been an error, then.

THE PROSPECTIVE JUROR: Father, brother, uncle, friends.

THE COURT: Oh, so you come from a long line of NYPD.

THE PROSPECTIVE JUROR: Yeah, pretty much.

THE COURT: Okay.

By the way, do you know whether any of them ever worked in the field of narcotics?

THE PROSPECTIVE JUROR: Probably my father.

THE COURT: Okay, is he retired?

THE PROSPECTIVE JUROR: He's deceased, but...

THE COURT: I'm sorry.

THE PROSPECTIVE JUROR: But he was retired when he passed away.

THE COURT: I see, I am sorry for your loss.

And so, he probably worked in narcotics at some point?

THE PROSPECTIVE JUROR: Yes, he did. I know he did.

THE COURT: Okay.

Is there anything at all about the fact that you all are pretty much in law enforcement that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: Do you think I can be an impartial juror?

THE COURT: Well, it's not up to me. I have to rely on what you tell us because it took so many years and so many experiences to make you who you are. There are no wrong or right answers here, we are just trying to make sure that this is a right fit with the people who have been asked to be here.

THE PROSPECTIVE JUROR: I, I have time to sit and be a juror, but as far as being impartial? I don't know.

THE COURT: Okay.

THE PROSPECTIVE JUROR: You know, that's a tough one.

THE COURT: Let me ask you a different way. You've heard me ask questions about an instruction that I will give about whether a police officer's testimony will be given more weight or less weight than anyone else.

Given your background, do you think that you would be inclined to believe a police officer more or less because they are a police officer or in law enforcement?

THE PROSPECTIVE JUROR: I certainly think I would be inclined to believe them more.

THE COURT: Okay.

Thank you, we appreciate your honesty.

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: And you had some issues with sitting for long periods of time as well, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, given that we're going to take some breaks, is that okay?

THE PROSPECTIVE JUROR: Yeah, that would be fine, that would be okay.

THE COURT: Okay. All right, thank you.

And Juror Number 121, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You told us that you have a roommate?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is your roommate working?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What kind of work does your roommate do?

THE PROSPECTIVE JUROR: She's a nanny.

THE COURT: She's a nanny?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, she's not a live-at-home nanny; she works during the day --

THE PROSPECTIVE JUROR: No.

THE COURT: -- and then comes back to live with you?

THE PROSPECTIVE JUROR: She goes from Sunday to Friday.

THE COURT: Sunday to Friday?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay.

THE PROSPECTIVE JUROR: She leaves on Sunday, comes back on Friday.

THE COURT: Okay. So, basically, she's a roommate for like, the weekend.

THE PROSPECTIVE JUROR: Right.

THE COURT: Okay. Not a bad deal, right?

You told us that you've been working at a hospital for seven years.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did you have a different job before that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What were you doing before that?

THE PROSPECTIVE JUROR: I was a nanny for a few years, I did taxes during the tax season, I did retail.

THE COURT: Retail. Okay, thank you.

So, you have training in nursing, in that health area?

THE PROSPECTIVE JUROR: No, it's not nursing. It's processing and deal with the instruments for the surgeries.

THE COURT: I see, okay.

You sat on a jury and I know it was a civil case, you told us.

What did you think about that experience?

THE PROSPECTIVE JUROR: It was, it was good. It was knowledgeable. You know we looked at the facts and, you know, judge based on the facts.

THE COURT: Thank you.

Okay. We have some more follow-up questions for the rest of you but at this time, as I promised, I am going to give everybody a little bit of a break for about 15 minutes.

So, remember that you are not supposed to do any kind of research, read or investigate or do anything, look at anything, listen to anything that might be connected with this case in any way, shape or form.

And another thing, I have asked the parties not to have any contact with any of the prospective jurors and it is because we do go through such a very detailed process to try to make sure that we pick a fair and impartial jury and so, while we don't want people to be rude or to be antisocial, it is just another way that we have to make sure that our prospective jurors are kept free from any kind of influence in any way.

So, there is a sort of reverse side to that coin. The other side of that coin is that I am going to ask all of you not to have any kind of contact with any of the parties or any of the Court staff, even something as simple as saying hello or good morning. Again, we don't want people to feel that they're being rude or antisocial, it is just the best way that we have to make sure that our prospective jurors remain free from any kind of influence at all.

So, when you come back, you are going to come back at 11:15. Please, wait outside and wait to be called in to the courtroom. We'll call you in when we are ready. Just make sure that you are all congregated outside by 11:15 and the sooner you come back, of course, the sooner we can get started, all right?

Thank you, I think Juror Number 57 is back here, okay. So, make sure you take your belongings with you. When we call you back in, you are going to resume the same seats, so keep an eye on where you're sitting, okay?

Thank you.

THE PROSPECTIVE JUROR: Can we stay?

THE COURT: No, I am going have to ask you to step outside. There are places to sit outside, we have a cafeteria on the third floor and there are places to sit there. Just be careful walking down that step, please.

(Prospective Jurors exit.)

(In open court; outside the presence of the jury.)

(Recess taken.)

(In open court.)

(Judge DORA L. IRIZARRY enters the courtroom.)

THE COURTROOM DEPUTY: All rise.

THE COURT: This is case on trial, continued. Voir dire is continued. All of the parties are present and accounted for, so we are going to bring in the jurors so that we can continue.

(Prospective Jurors enter.)

THE COURT: Welcome back ladies and gentlemen. And we joined by Juror Number 57.

What happened to you this morning?

THE PROSPECTIVE JUROR: I overslept, Judge.

THE COURT: Okay. Well, that can't happen again if you're chosen to serve on this case. Because once we are on trial -- we were able to continue on, but if you are chosen to serve on the case, we can't go forward unless we have absolutely everyone present, okay?

THE PROSPECTIVE JUROR: Okay.

THE COURT: Because absolutely every juror is important to the case.

I am going to go a little bit out of order and then we'll go back to the next juror, who will be number 139.

I just wanted to follow up, ma'am, with some of the responses that you gave to the questionnaire that you filled out a couple of weeks ago in this case. I want to first address some of the issues that you raised and perhaps, maybe we should discuss this at the side with Counsel, please, with the reporter.

(Side-bar conference held on the record out of the hearing of the jury.)

(Side-bar.)

THE COURT: Are you okay? I see you limping.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay.

So, you addressed some issues concerning doctor appointments.

THE PROSPECTIVE JUROR: Yes.

THE COURT: You have sciatica, I guess that's why you are limping.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you take medication for the sciatica?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What kind of medication do you take?

THE PROSPECTIVE JUROR: I can't pronounce it. I take it twice at nighttime -- morning time and at nighttime.

THE COURT: Are they painkillers?

THE PROSPECTIVE JUROR: Yes, for me to walk because I couldn't really walk.

THE COURT: I see. And do these painkiller make you drowsy?

THE PROSPECTIVE JUROR: Yes, they do.

THE COURT: They do.

THE PROSPECTIVE JUROR: Yes.

THE COURT: That's probably the reason why you overslept, right?

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: So, you've got to take them at night and you've got to take them in the morning.

THE PROSPECTIVE JUROR: I don't take them in the morning. I take them at night because I be at work and I fall asleep.

THE COURT: I see, so you deal with the pain; is that it, during the day?

THE PROSPECTIVE JUROR: Yes.

THE COURT: When you have this pain, are you able to focus on what you are doing?

THE PROSPECTIVE JUROR: Sometimes I can, sometimes I can't.

THE COURT: Okay. So, it's a little distracting.

THE PROSPECTIVE JUROR: Yes.

THE COURT: You mentioned some doctor appointments. How regular are these doctor appointments?

THE PROSPECTIVE JUROR: Well, I have two --

THE COURT: Would you like for to us pull up a chair for you?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Can we pull up a chair for her.

Better?

THE PROSPECTIVE JUROR: Yes.

THE COURT: All right.

So, how often are these doctor appointments?

THE PROSPECTIVE JUROR: Well, my doctor -- I have two doctors, one for diabetic and one for my leg.

THE COURT: Right.

THE PROSPECTIVE JUROR: And they are like every, maybe every other month.

THE COURT: Every other month. So, when are your next appointments coming up?

THE PROSPECTIVE JUROR: July, I think the 10th.

THE COURT: July 10th.

THE COURTROOM DEPUTY: That's a Wednesday.

THE COURT: That's a Wednesday.

Is that an appointment that could be moved to a different day? We don't sit here on Fridays. Or would it be difficult.

THE PROSPECTIVE JUROR: It's, he told me I have to keep them because it's for my leg and he doesn't be in the office the other days, just like on Wednesdays.

THE COURT: Is he a specialist?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay.

And with respect to the diabetes, are you managing it? What is the story with the diabetes?

THE PROSPECTIVE JUROR: I take a needle and he just put me on some pills.

THE COURT: So, are you doing both the needle and the pills?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. And how often? The needle, we are assuming, is for insulin; right?

THE PROSPECTIVE JUROR: Yes, I take that at nighttime before bed.

THE COURT: At nighttime.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is that the only time you take it?

THE PROSPECTIVE JUROR: Yes, the needle.

THE COURT: Okay. And then, the medication, do you take that throughout the day?

THE PROSPECTIVE JUROR: Yes, I have to take it two hours before I eat breakfast and two hours after. I think it's two hours after.

THE COURT: Okay. What do you do about your diet? I know some diabetics sometimes just carry their food around with them.

THE PROSPECTIVE JUROR: No, I just be careful on what I'm eating. It's still too high, he's trying to bring it down.

THE COURT: I see, so if your sugar goes too high, what do you do?

THE PROSPECTIVE JUROR: I drink a lot of water.

THE COURT: Okay.

THE PROSPECTIVE JUROR: To bring it down.

THE COURT: All right. So, if we asked you to serve, it would be okay if I let you bring in water you could sip on during the time?

THE PROSPECTIVE JUROR: Mm-hmm.

THE COURT: As I explained earlier to the other jurors, we normally sit between 9:30 and 5:00 o'clock. There may be times we might go a little bit over, beyond 5:00 o'clock, just to finish up with a witness, if we can do that quickly enough. And then we do take a break in the middle of the morning and we take a break for lunch, an hour break for lunch, and then we take another break in the middle of the afternoon.

Now, in your situation, what do you need to do? Do you need to move around or do you need to be sitting or lying down? I don't know.

THE PROSPECTIVE JUROR: He wants me, the medicine is mostly for me lying down.

THE COURT: Okay.

THE PROSPECTIVE JUROR: And like when I'm at work, I take a pillow and sit up underneath my leg, so I can work.

THE COURT: Okay. What do you do again?

THE PROSPECTIVE JUROR: I'm a security supervisor.

THE COURT: You are a security supervisor.

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, are you sitting most of the time?

THE PROSPECTIVE JUROR: No.

THE COURT: You are standing.

THE PROSPECTIVE JUROR: I am standing and moving around and checking things, making sure everything is in order.

THE COURT: Okay. So, what is more of a problem for you, standing or sitting?

THE PROSPECTIVE JUROR: Sitting mostly.

THE COURT: Sitting is a bigger problem for you.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay.

While I have you up here, you mentioned as well that you had a brother who is deceased now.

THE PROSPECTIVE JUROR: Yes.

THE COURT: I am sorry for your loss.

You also mentioned that he had been in prison?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you know what the charges were?

THE PROSPECTIVE JUROR: I can't remember.

THE COURT: How long ago was that.

THE PROSPECTIVE JUROR: It's about over 27 years ago.

THE COURT: Oh, long time ago.

THE PROSPECTIVE JUROR: Mm-hmm.

THE COURT: Was he an older brother?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And you don't know anything at all about the charges or what happened to him.

THE PROSPECTIVE JUROR: No.

THE COURT: Is there anything about the fact that your brother went to prison that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: There was a question about whether you were aware of any gang activity in the neighborhood and so on.

THE PROSPECTIVE JUROR: Mm-hmm.

THE COURT: You mentioned that they come on the project grounds sometimes to start fights.

THE PROSPECTIVE JUROR: Yes.

THE COURT: There may be some allegations here about gang or gang-type activity in the charges here.

Is there anything about that and your experiences that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: Are you in a lot of pain right now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You are.

THE PROSPECTIVE JUROR: Mm-hmm.

THE COURT: Okay.

Are there any questions for the juror?

MR. AMATRUDA: Your Honor, would you inquire whether the juror has a feeling either way about whether her brother was treated fairly or not?

THE COURT: Do you have any sense about whether your brother was treated fairly or not by the system?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay.

Yes, ma'am?

MS. FARHADIAN: May I go back to just the first thing we were talking about, the medication you take for the sciatica. So, you said you take it at night, but not in the morning.

THE PROSPECTIVE JUROR: Not in the morning.

MS. FARHADIAN: I don't know what that medication is and I don't want to pry, but does it affect your ability to concentrate?

THE COURT: To focus.

MS. FARHADIAN: I don't know how much you're comfortable saying as to what it is, I'm not familiar with it.

THE PROSPECTIVE JUROR: I don't know the name of it. I should have brought it with me, but I have to take it.

THE COURT: Okay.

THE PROSPECTIVE JUROR: I have to take it.

MS. FARHADIAN: Oh, of course.

THE COURT: So, the bottom line is that you were told to take it in the morning for the pain, but you are not taking it because otherwise you can't work.

THE PROSPECTIVE JUROR: I can't work.

THE COURT: You can't function.

THE PROSPECTIVE JUROR: I can't function.

MR. RUSSELL: Could I just ask a question?

THE COURT: Of course.

MR. RUSSELL: In not taking it in the morning but walking around, does that help as opposed to not taking it and sitting down?

THE PROSPECTIVE JUROR: No.

MR. RUSSELL: No.

THE PROSPECTIVE JUROR: I'd be in excruciating pain. I just try to deal with it until I get home.

THE COURT: Do they give you any over-the-counter stuff that you can take for it?

THE PROSPECTIVE JUROR: No, no. This is doctor prescribed.

THE COURT: But, in other words, if you don't take the prescription medicine, can you take something over-the-counter to help with the pain, like Advil or Aleve? There's a bunch of stuff out there. Tylenol?

THE PROSPECTIVE JUROR: No, I tried all those.

THE COURT: You tried all of those. And nothing works?

THE PROSPECTIVE JUROR: Nothing.

THE COURT: Okay.

Are there any other questions?

ALL: No, thank you.

THE COURT: Thank you.

Be careful standing up, please, and sitting down. Take your time.

Counsel, before you walk away.

You can go back to your seat.

THE PROSPECTIVE JUROR: Okay.

THE COURT: Just take your time, be careful.

THE PROSPECTIVE JUROR: Mm-hmm.

THE COURT: I'm just wondering whether we should just, rather than have her here in pain, just let her go home.

ALL: Yes, that's fine.

(Side-bar end.)

(In open court.)

THE COURT: Ma'am, Juror Number 57, you can go home.

THE PROSPECTIVE JUROR: Do I have to come back?

THE COURT: Just make sure that you take all of your belongings with you.

THE PROSPECTIVE JUROR: This is it?

THE COURTROOM DEPUTY: Yes.

THE PROSPECTIVE JUROR: Okay, thank you.

THE COURT: Feel better.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: We just don't want you sitting here in pain.

THE PROSPECTIVE JUROR: All right thank you.

THE COURT: Be careful please, stepping out.

(Juror 57 exits.)

(Continued on following page.)

(In open court)

THE COURT: We are back following our order. We are up to juror number 139.

Good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You had an uncle who is presently in the Army.

Is he a career Army person?

THE PROSPECTIVE JUROR: I don't know that much about him. I just know he goes every month for two weeks.

THE COURT: Okay. So he's what we call a reservist then?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So he gets called on a monthly basis, whenever they need him.

You mentioned also that you had a brother, two or three years ago, with the NYPD. Is it that he applied or is he working?

THE PROSPECTIVE JUROR: He applied for it.

THE COURT: Okay. Has he been accepted?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. You have been working at your current job doing personnel compliance?

THE PROSPECTIVE JUROR: Correct.

THE COURT: For three years.

Were you working before that?

THE PROSPECTIVE JUROR: The same company, for a total of 14 years. Three years in the present job.

THE COURT: What were you doing for them before that?

THE PROSPECTIVE JUROR: Working in the trading floor in operations.

THE COURT: You have some young children and I gather you have care for them during the day while you are working?

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: You will have the same care for them if you were chosen to serve on this case?

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: Does your job pay for jury service?

THE PROSPECTIVE JUROR: Of course, yes.

THE COURT: They do. Okay.

Is there anything at all, any reason at all, any reason why you think you can't serve on this jury?

THE PROSPECTIVE JUROR: Not at all.

THE COURT: Thank you.

And juror number 144, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You are a nurse, correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How long have you been a nurse?

THE PROSPECTIVE JUROR: Fifteen years.

THE COURT: Fifteen years?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you work at -- without telling us specifically where, you are working at a nursing home?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did you ever work at hospital?

THE PROSPECTIVE JUROR: No.

THE COURT: No.

Have you ever done emergency room work before?

THE PROSPECTIVE JUROR: No.

THE COURT: So the people that are your clients or your patients, are they elderly people?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Mostly?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You have a child who is a case manager or a social worker?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you ever talk to your daughter about the work she does?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Does she sometimes work with people who have drug problems?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is there anything about -- you have heard me mention that this case concerns allegations of distribution of drugs. Is there anything about perhaps a conversation that you have had with your daughter or the work that you have done as a nurse, as a care giver, and the fact that this case concerns drugs, that you think would affect your ability to be fair and impartial in this case?

THE PROSPECTIVE JUROR: No.

THE COURT: Just generally, do you have any thoughts about the criminal justice system, whether it is fair or it is not fair or perhaps ways it can be improved? Do you have any thoughts at all?

THE PROSPECTIVE JUROR: There might be ways it could be improved but that's just my thoughts.

THE COURT: In what way do you think maybe it could be improved?

THE PROSPECTIVE JUROR: What should I say? I would say from the -- probably like the judgment sometimes.

THE COURT: In what way?

THE PROSPECTIVE JUROR: Depends on like how many years a criminal will get or if they are going to get years or if they are going to get some other form of, you know, justice. But that is just really my thoughts.

THE COURT: Right.

Of course, you are perfectly entitled to have your opinion and your thoughts.

There are a lot of debates out there about whether there are sentences that are too long or too short, for example, and of course everyone is entitled to have their opinion about that. There is no wrong or right in that regard.

THE PROSPECTIVE JUROR: Right.

THE COURT: Everyone is entitled to their opinion.

One of the instructions that I will be giving to the jurors who are chosen to serve is that whatever verdict they render has to be based only on the evidence that is presented, the admissible evidence that's presented, my instructions on the law, and the jurors will have to apply that evidence and the facts as they find them to the law as I give it and they have to have a discussion about that and make a decision unanimously whether or not the government has sustained their burden of proof.

In reaching that decision, the jury has to be free from any kind of sympathy or bias or prejudice and they also cannot consider any question of possible punishment. Because if there is a verdict of guilty, a unanimous verdict of guilty, then, if there is going to be punishment, that's going to be up to the Court alone.

Regardless of what your views are, would you be able to render a verdict free from any thoughts of punishment or sympathy or bias or anything of that sort?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Thank you.

Juror number 156, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You have been looking for work for a while, correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. How is that going?

THE PROSPECTIVE JUROR: I am picking up little jobs here and there. But nothing steady yet.

THE COURT: Nothing steady.

You heard me mention that this case could go for approximately six weeks, thereabouts, six to seven weeks. How would that affect you?

THE PROSPECTIVE JUROR: That would put a strain on me financially and my family.

THE COURT: When --

THE PROSPECTIVE JUROR: I need to go out there to find work.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: I need to be out there looking for work.

THE COURT: You also mentioned issues about sitting.

THE PROSPECTIVE JUROR: I'm sorry?

THE COURT: You mentioned issues about sitting for long periods of time?

THE PROSPECTIVE JUROR: Yes.

I had broke my back years ago and I have metal bars inside my spine.

THE COURT: Does standing help you?

THE PROSPECTIVE JUROR: Standing is better than sitting.

THE COURT: Standing is better than sitting.

If you were chosen to serve on the jury, sometimes I have made arrangements so that the jurors can be placed in a situation where the juror can stand when they feel the need to stand. Would that be helpful to you?

THE PROSPECTIVE JUROR: It would be, yes.

THE COURT: Okay. You also mentioned that you may have some issues hearing. Have you been able to hear us well enough?

THE PROSPECTIVE JUROR: I miss words once in a while, yes.

I also have tinnitus.

THE COURT: You do? That affects your hearing?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You also -- for the attorneys it's question 35. That was sort of a general question asking about any experience that any of the prospective jurors may have had or family members or close friends with respect to the abuse of alcohol or drugs.

You answered, have done illegal drugs. But I don't know if you meant yourself or someone that you knew, if you could just elaborate on it.

THE PROSPECTIVE JUROR: It was myself, but many years ago.

THE COURT: Okay. Did you ever get arrested or charged as a result of that?

THE PROSPECTIVE JUROR: No.

THE COURT: No.

Is there anything at all about the nature of the charges that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. I see you holding an envelope. Is that something that you would like for us to see?

THE PROSPECTIVE JUROR: No. I just have documents showing that I had the back surgery.

THE COURT: Okay. We can take your word for that.

Again, if you feel that even standing in place would be helpful for you while we finish this process, feel free to do that.

THE PROSPECTIVE JUROR: Okay. Thank you.

THE COURT: Okay. All right.

Thank you.

Juror 158, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: For question number 13, I just wanted to follow-up on your answer.

What's the highest grade that you completed in school?

THE PROSPECTIVE JUROR: College.

THE COURT: You went to college?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Was that here in the United States?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What was your major?

THE PROSPECTIVE JUROR: Marketing and PR.

THE COURT: Exactly what you are doing now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Good.

You have been doing that for six months now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Were you working before that?

THE PROSPECTIVE JUROR: Before this job, it was a bunch of internships.

THE COURT: Okay. Sort of setting you up for the job that you have now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You have also mentioned that you have a friend who is in the New York City Police Department?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is this a close friend?

THE PROSPECTIVE JUROR: No. I met him from another friend. I am not close with him. I just know he works there.

THE COURT: Do you know whether that person works in the narcotics division?

THE PROSPECTIVE JUROR: I am not sure.

THE COURT: Do you ever get a chance to talk to him about his work?

THE PROSPECTIVE JUROR: Not really.

THE COURT: Okay. Are you working for a company or for yourself.

THE PROSPECTIVE JUROR: A company.

THE COURT: You are working for a company.

You only have been at that job for six months. Have you discussed with them what they pay for jury service?

THE PROSPECTIVE JUROR: They are not paying me.

THE COURT: They are not paying you?

THE PROSPECTIVE JUROR: No.

THE COURT: So how are you going to be supporting yourself besides the jury stipend that you will get?

THE PROSPECTIVE JUROR: I can't.
THE COURT: Is this a hardship for you?
THE PROSPECTIVE JUROR: Yes.
THE COURT: You live with your mom and dad and your brother?
THE PROSPECTIVE JUROR: Yes.
THE COURT: The home, does it belong to your parents?
THE PROSPECTIVE JUROR: Yes.
THE COURT: Are you living there rent-free right now?
THE PROSPECTIVE JUROR: Yes.
THE COURT: You are. Okay.
Why would this be a hardship for you?
THE PROSPECTIVE JUROR: My aunt has cancer. So I help out around the house with groceries and babysitting my baby cousin. Just trying to help out with the family.
THE COURT: Okay. But that's not a financial hardship. That's stuff that you do on your own time, right?
What are your hours?
THE PROSPECTIVE JUROR: I also have work and bills to pay.
THE COURT: You have bills to pay and work, did you say?
THE PROSPECTIVE JUROR: Yes.

THE COURT: What do you mean?

THE PROSPECTIVE JUROR: I need a job to pay for my bills.

THE COURT: Okay. Like what kind of bills are you talking about?

THE PROSPECTIVE JUROR: Credit card bills and I also help out -- I don't pay rent but I also pay for groceries at the home. So most of my money goes to food for my family.

THE COURT: Can mom and dad help support you while you do an important public service?

THE PROSPECTIVE JUROR: I haven't asked my parents for money. I kind of just give them my money. So I feel wrong if I ask them for six weeks to pay for stuff.

THE COURT: Are they working?

THE PROSPECTIVE JUROR: My dad is a mailman. My mom is a stay at home mom.

THE COURT: She is a stay at home mom?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How old is your brother?

THE PROSPECTIVE JUROR: My brother is 26.

THE COURT: He is 26?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Does he work?

THE PROSPECTIVE JUROR: He's unemployed right now.

THE COURT: He is unemployed?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you have any student loans?

THE PROSPECTIVE JUROR: I do not.

THE COURT: Okay. Thank you.

Juror 165, good morning still.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You have a daughter who is a lawyer?

THE PROSPECTIVE JUROR: That's correct.

THE COURT: Do you know whether she has done any kind of criminal work?

THE PROSPECTIVE JUROR: Not recently, no.

THE COURT: But she has done it in the past?

THE PROSPECTIVE JUROR: Yes.

THE COURT: As a defense lawyer or as a prosecutor, do you know?

THE PROSPECTIVE JUROR: As a clerking for a judge and as a defense.

THE COURT: Okay. Do you know whether your daughter clerked for a state judge or a federal judge?

THE PROSPECTIVE JUROR: Federal judge.

THE COURT: Federal judge?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Here in the New York area?

THE PROSPECTIVE JUROR: Philadelphia.

THE COURT: In Philadelphia.

Do you get to talk to her at all about the work that she did?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is there anything at all about those conversations that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: Not those particular conversations, no.

THE COURT: Are there any kind of conversations that you have had with her that you think might affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No. Sorry.

THE COURT: You are still on retirement status?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You were in the military. What branch of the military were you in?

THE PROSPECTIVE JUROR: Air Defense Artillery but I was assigned to the 591 military police.

THE COURT: You were in the military. Is that Army? Excuse my ignorance.

THE PROSPECTIVE JUROR: Yes, Army.

THE COURT: Okay. As a military police officer -- how long did you do that?

THE PROSPECTIVE JUROR: About eight months.

THE COURT: Eight months.

As a military police officer, did you have to make arrests?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Did you have to testify before a military court or a civilian court?

THE PROSPECTIVE JUROR: No.

It was primarily in apprehension and transportation.

THE COURT: Okay. As I mentioned earlier, there are likely going to be police officers or other law enforcement people here testifying during the course of the trial.

Do you think based on the fact that you have done some police type of work that you would be inclined to believe an officer's testimony more or less because they are a police officer?

THE PROSPECTIVE JUROR: I would be inclined to agree more with the officers.

THE COURT: You mentioned also that you have some hearing issues as well, correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Have you been able to hear everything we have been saying here?

THE PROSPECTIVE JUROR: Pretty much so, yes.

THE COURT: Okay. You served on a federal criminal trial as well about four years ago. Was that here in this courthouse?

THE PROSPECTIVE JUROR: Yes, it was.

THE COURT: Is there anything about the service on that jury that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: What did you think about the experience? I always kind of keep my fingers crossed when I ask that question.

THE PROSPECTIVE JUROR: It was a very interesting experience. It would be even better if they could put the federal courthouse in more easily located locations.

THE COURT: We do have a courthouse in Central Islip but travel there is not so easy either. I understand that. You have to talk to your Congress people about giving more money to the judiciary on that score. But money is tight all the way around.

We thank you for that observation.

Thank you very much.

MR. HERMAN: Judge, I'm sorry. On the hardship, number one.

THE COURT: Yes?

MR. HERMAN: Did you inquire about that? I am not sure.

THE COURT: Yes. He said that he has been able to follow.

MR. HERMAN: I'm sorry. Page 25, some medical issues that he made reference to.

THE COURT: Oh, yes.

Can we just have you come up for a minute, sir?

(Side bar.)

(Juror joins side bar.)

THE COURT: Sir, if you will step over here next to me.

I did want to follow-up with these. I did have that on my list. Thank you for reminding me.

You mentioned that you had or have colon cancer.

THE PROSPECTIVE JUROR: I -- it's in remission.

THE COURT: It's in remission.

THE PROSPECTIVE JUROR: But the problem with that is on a daily basis when I get up in the morning I have to go to the restroom and I'll have to do that at least two more times sometime during the morning.

THE COURT: Are you taking medication for that?

THE PROSPECTIVE JUROR: I am taking -- not for that. But I get a colonoscopy every -- once a year.

But for the diabetes and the high blood pressure I am taking metformin, laborite, timalin, and I have it written down.

THE COURT: You take four different kinds of medications for the diabetes?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you have to take insulin shots?

THE PROSPECTIVE JUROR: No.

THE COURT: No shots.

THE PROSPECTIVE JUROR: Not yet any way.

THE COURT: Okay.

First things first.

What about with the cancer, is that something that you have to have any kind of regular visits besides the once a year exam?

In other words, are you seeing a doctor on a regular basis?

THE PROSPECTIVE JUROR: Absolutely.

THE COURT: How frequently do you --

THE PROSPECTIVE JUROR: Every six months.

THE COURT: When are you due to see the doctor again?

THE PROSPECTIVE JUROR: In December.

THE COURT: In December. Okay.

With the hearing, you say that you need hearing aids. Are you using hearing aids now?

THE PROSPECTIVE JUROR: Yes. Not right now.

What happens is, I also have allergies. What will happen is, if I put the hearing aids in, I get water in my ears. So it just doesn't work out.

Today it's very little -- no background information. But if you are speaking and you said to me, spaghetti, for instance, I would hear are you ready. Or if you said please, I might think you said sneeze.

THE COURT: It sorts of gets translated into something different?

THE PROSPECTIVE JUROR: Right.

What you are saying, what I am hearing, isn't always the same thing.

THE COURT: I see.

Do you have any follow-up questions?

MR. RINALDO: Can I ask one thing?

There is one answer to one of the judge's questions which confused me a little. It might just be me.

She asked about if your conversations with your daughter who is a lawyer might affect your ability to be fair. You said not those conversations.

THE PROSPECTIVE JUROR: No.

MR. RINALDO: But are there conversations with other people that might affect your ability to be fair?

THE PROSPECTIVE JUROR: When I was in the military police, I worked with Border Patrol, Immigration and the Customs. So what we did is we were on a secure military base. We literally had to patrol the border. --

THE COURT: You were in El Paso?

THE PROSPECTIVE JUROR: Yes.

This was before it was organized the way it is now. So you would be 70, 80 miles out in the middle of the desert. You would find people that have come across the border. Most of those experiences --

MR. RINALDO: So those experiences might affect your ability in this case?

THE PROSPECTIVE JUROR: Yes, unfortunately.

MR. RINALDO: Okay.

THE COURT: All right. Are you feeling now -- are you comfortable now? Are you okay now?

THE PROSPECTIVE JUROR: Not really.

THE COURT: That was a loaded question. Are you in any kind of pain or anything like that?

THE PROSPECTIVE JUROR: No. Just a little.

THE COURT: You need water?

THE PROSPECTIVE JUROR: No.

THE COURT: Can we get anything for you?

THE PROSPECTIVE JUROR: A little. No.

THE COURT: With diabetes I am always concerned.

THE PROSPECTIVE JUROR: We had the break. I had water and I ate something.

THE COURT: So you are okay now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. But if you do feel that something is not quite right, just kind of raise your finger. We will kind of know. We will make sure that you are okay.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: All right. Thank you.

Have a seat.

(In open court.)

THE COURT: Thank you.

Juror 176, good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: You have been at your current job now for five months. I will just get to it.

You are in human resources?

THE PROSPECTIVE JUROR: Correct.

THE COURT: You have been helping to provide housing and services to people with mental illness?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Some of those people, do they also have issues with respect to drug use?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is there anything about the work that you do in connection with those people who are in need of these services and the charges here that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: Were you working before that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What were you doing before that.

THE PROSPECTIVE JUROR: Similar; payroll, benefits, human resources.

(Continued on next page.)

THE COURT: With the same agency?

THE PROSPECTIVE JUROR: Different agency, same service.

THE COURT: And do you also have -- your spouse is in the Army National Guard, as well?

THE PROSPECTIVE JUROR: Retired.

THE COURT: Retired?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you know whether he ever served -- did any military police duty?

THE PROSPECTIVE JUROR: Yes, he did.

THE COURT: He did?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you ever talk to him about the work that he did in that capacity?

THE PROSPECTIVE JUROR: Somewhat.

THE COURT: Is there anything about that that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: You heard me talk about the legal principle concerning how a jury evaluates the testimony of police officers. You are not to give their testimony more weight or less weight just because they are police officers. Would you be able to follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And your husband also had his car broken into. Did he report that to the police?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And do you know whether anyone was ever arrested in connection with that?

THE PROSPECTIVE JUROR: No.

THE COURT: How do you feel about the way the police handled this?

THE PROSPECTIVE JUROR: They responded. Very courteous.

THE COURT: Anything about that that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: You also mentioned that your husband had some excitement in his life?

THE PROSPECTIVE JUROR: Yes, he has.

THE COURT: He also was involved in a court proceeding of some sort. What was that?

THE PROSPECTIVE JUROR: Due to his employment. It was a contractor, not him personally, but he had to testify.

THE COURT: Was that in the military tribunal?

THE PROSPECTIVE JUROR: I don't believe so. He was a provost marshal at the time. So, I don't know the details.

THE COURT: I'm not sure what a provost marshal does. Is that a person who brings the charges?

THE PROSPECTIVE JUROR: No. My understanding -- again, we didn't discuss it a lot, because it was in his deployment -- it was like a police chief for that base or that camp.

THE COURT: Was that here in the United States, or was that abroad?

THE PROSPECTIVE JUROR: That was abroad.

THE COURT: Just overall, is there any reason that you can think of why you would not be able to serve on this jury?

THE PROSPECTIVE JUROR: No. No.

THE COURT: I gather that you're a salaried employee?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, your employer will cover the cost of service?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

Now, we're moving over to our auxiliary rows.

Juror No. 177, good afternoon. You mentioned that you work now currently in corrections; correct?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is that federal or state? Just generally, federal or state?

THE PROSPECTIVE JUROR: For the city.

THE COURT: It's for the city?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay.

So, actually, it's neither federal or state, it's for the city.

And how long have you been doing corrections work?

THE PROSPECTIVE JUROR: Two years.

THE COURT: Two years?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Were you working before that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What kind of work were you doing before that?

THE PROSPECTIVE JUROR: I was an administrative assistant for a bank part-time.

THE COURT: Can you tell us a little bit what it is that you do in connection with your work? You mentioned that you provide programs for assistance in corrections. Can you tell us a little bit more about that work that you are doing?

THE PROSPECTIVE JUROR: Right now, I'm still an administrative assistant, so I work with like different people, like different departments, to bring the programs to corrections.

THE COURT: So, these are -- so, you are helping people who are bringing programs into corrections for the inmates who are housed there?

THE PROSPECTIVE JUROR: Hmm.

THE COURT: Like educational programs?

THE PROSPECTIVE JUROR: I don't personally do those programs, but I work with people who want to bring in a program, so I talk to them. But I do a lot of administrative stuff. I do reporting.

THE COURT: You provide like support work for the program?

THE PROSPECTIVE JUROR: Yes, hmm.

THE COURT: Do you have any direct contact with any of the inmates, or do you work exclusively with the people who are running the programs?

THE PROSPECTIVE JUROR: No -- yes.

THE COURT: So, you work for the people who are running the programs?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Is there anything about the work that you do that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: You did serve on a state jury before in a criminal case. Is there anything about that work -- I'm sorry -- your service on the jury, can you tell us about your experience there? Did you like it? Did you not like it? Any suggestions for how life could be better for jurors in the state court as opposed to federal court?

THE PROSPECTIVE JUROR: It was an interesting case. The only downside, it's a lot of waiting time.

THE COURT: I understand that. I've been called to jury duty, too. Nobody picked me. I wonder why. I have been called. It is a little frustrating to sit around the whole time. Do trust -- I'm here on the other side to tell you -- we are really working hard, even though you are sitting around and waiting. There are reasons for it. It is a little frustrating, because I have been on that side, too.

And you have a -- your sister -- the sister of your brother-in-law is an attorney. Do you get a chance to chat with her about the work she does?

THE PROSPECTIVE JUROR: Not really. We don't like to talk about work.

THE COURT: Does she do civil work or criminal work?

THE PROSPECTIVE JUROR: I think it's like business law.

THE COURT: She does like corporation work, for a business?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: You are welcome.

THE COURT: Juror No. 178. Good afternoon.

THE PROSPECTIVE JUROR: Good afternoon. Yes.

THE COURT: Can you tell us what is the highest grade that you completed in school?

THE PROSPECTIVE JUROR: High school.

THE COURT: Where did you go to school, here in the United States?

THE PROSPECTIVE JUROR: Puerto Rico. I finished high school.

THE COURT: In Puerto Rico?

THE PROSPECTIVE JUROR: Yes.

THE COURT: I gather from your answers that you are retired?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What kind of work did you do before you retired?

THE PROSPECTIVE JUROR: Sanitation.

THE COURT: How long were you doing sanitation work?

THE PROSPECTIVE JUROR: Twenty-two years.

THE COURT: Twenty-two years?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Here in New York?

THE PROSPECTIVE JUROR: Yes.

THE COURT: You have two children. Are they boys or girls?

THE PROSPECTIVE JUROR: Boy and a girl.

THE COURT: A boy and a girl.

You were also in the National Guard. I think we have the military for this pool.

THE PROSPECTIVE JUROR: I did military time, nine years.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: I did military time, National Guard, nine years.

THE COURT: As a reservist or full-time?

THE PROSPECTIVE JUROR: National, reserve, up in the Bronx, infantry.

THE COURT: Did you ever get a chance to serve as a military police officer?

THE PROSPECTIVE JUROR: No.

THE COURT: Or to perhaps participate in any kind of military court in any way?

THE PROSPECTIVE JUROR: No.

THE COURT: It's not clear to me from your response to jury service, did you actually get to serve on a jury?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Was that in state court or federal?

THE PROSPECTIVE JUROR: It was on Schermerhorn. I think it was the state.

THE COURT: On Schermerhorn Street. That would have been state. Do you know if that was a grand jury or a trial jury?

THE PROSPECTIVE JUROR: Small trial. I think an accident trial.

THE COURT: So, it was a civil case?

THE PROSPECTIVE JUROR: Yes, civil case.

THE COURT: Without telling us what the actual verdict was, did the jury actually get the case to decide on a verdict?

THE PROSPECTIVE JUROR: Yes. They split.

THE COURT: Okay. Is there anything about that experience that you think would affect your ability to be fair and impartial in this case?

THE PROSPECTIVE JUROR: No. I have no problem.

THE COURT: For the attorneys, question 27.

You mentioned that you had some cousins who were -- or friends who served some time in prison. How long ago was that?

THE PROSPECTIVE JUROR: Well, they are still in prison.

THE COURT: Okay. Do you know what the charges were?

THE PROSPECTIVE JUROR: Oh, well, drugs, possession, shooting at cops, all kinds of things.

THE COURT: Were any of them in jail for murder or attempted murder?

THE PROSPECTIVE JUROR: Attempted. It's like six of them. They are all in there, the whole family.

THE COURT: How do you feel about the way their cases were handled or they were treated by the police, by the court system?

THE PROSPECTIVE JUROR: All I heard about the case is when they got locked up, because of the family, when I called. I don't really get involved. I don't want to know about that.

THE COURT: So, you don't know anything else about that.

Is there anything about the fact that they are in jail that would affect your ability to be fair and impartial in this case?

THE PROSPECTIVE JUROR: Yes.

THE COURT: In what way?

THE PROSPECTIVE JUROR: Because you got to listen to both sides before you decide anything. That's my thing.

THE COURT: But we are going to ask the jury exactly that, to keep an open mind and to listen to all the evidence, to observe the proceedings, and then to apply the facts that are found by the jury, right, to the law as I'm going to give it, and then the jury is going to have a discussion among themselves once they actually get set and start their deliberations, and the jury will have to decide unanimously whether or not the government has sustained the burden of proof beyond a reasonable doubt of proving the charges that they have brought against Mr. Taylor and Mr. Pinkney.

Would you be able to do that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And the other thing that I mentioned earlier, as well, in talking with some of your fellow jurors, is that clearly, we're all human beings, and everybody brings their experiences with them. But we are going to ask the jury to set aside any sympathies, biases or prejudices or any thoughts about punishment and not let that interfere with whatever decision the jury reaches.

Would you be able to do that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: You are welcome.

THE COURT: And Juror No. 179, good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: You mentioned that you also have some issues with your knees and you need to move around. Is it more difficult for you to be sitting?

THE PROSPECTIVE JUROR: I can sit for roughly ninety minutes to close to two hours. After that, I have to get up and walk around for a little bit.

THE COURT: More or less, that's about when we take the breaks in the morning and in the afternoon. Today, we are sitting a little bit more than we usually do. If we did that, that would be okay?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Are you taking any medication for the knees, anything at all?

THE PROSPECTIVE JUROR: No.

THE COURT: You've been at your current job for about two months, I think you said; correct?

THE PROSPECTIVE JUROR: At that time, yes.

THE COURT: Okay. Were you working before that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What were you doing before that?

THE PROSPECTIVE JUROR: Computer support, financial services, downtown.

THE COURT: How long were you doing that for?

THE PROSPECTIVE JUROR: Fourteen years.

THE COURT: You also mentioned that your wife apparently has been the victim of a crime of assault. Was that reported to the police?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Was anyone ever arrested?

THE PROSPECTIVE JUROR: My wife declined to press charges. It was a family member.

THE COURT: It was a family member?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How do you feel about the way that the police or the prosecutors handled the case?

THE PROSPECTIVE JUROR: There was no case.

THE COURT: Okay.

THE PROSPECTIVE JUROR: There was no case.

THE COURT: The police were told she didn't want the person charged?

THE PROSPECTIVE JUROR: The police were called, they wrote up an incident, but she declined to press charges after that.

THE COURT: Okay. You mentioned that you had been stopped once for speeding?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How do you feel about that? That was down in Virginia?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What was that encounter like?

THE PROSPECTIVE JUROR: I was caught dead to rights, and the officer, because I had a screaming granddaughter in the back seat, instead of taking me off to the police station, just wrote it down to a misdemeanor charge.

THE COURT: How do you feel about that whole situation? Do you to think you were treated fairly?

THE PROSPECTIVE JUROR: I was grateful for that.

THE COURT: Is there anything about that experience that you feel would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: You mentioned that your wife had an on-the-job injury and she had -- did she have to testify in a hearing?

THE PROSPECTIVE JUROR: It was a lawyers' conference or pretrial conference between the parties, and as a result of that, they decided to settle out of court.

THE COURT: She never actually had to testify in a proceeding?

THE PROSPECTIVE JUROR: Never in court, no.

THE COURT: Was she represented by an attorney?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And how do you feel about the services that were provided by the attorney?

THE PROSPECTIVE JUROR: I thought they were fair.

THE COURT: And you mentioned there was sort -- there was sort of a general question, number 35, about you have some stepchildren that were involved with drugs and alcohol. Were any of them -- did they ever receive any treatment for it?

THE PROSPECTIVE JUROR: Not that I am aware of. They have kind of managed to kick the habit on their own.

THE COURT: Were they ever arrested or had to deal with the court system as a result?

THE PROSPECTIVE JUROR: Not that I am aware of, no.

THE COURT: You heard me mention that this case involves allegations of distribution of drugs. Is there anything about the experience of your stepchildren and the charges that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: You did mention, as well, a potential hardship, the possibility of a Long Island Rail Road strike --

THE PROSPECTIVE JUROR: Yes.

THE COURT: -- in mid-July. Obviously, we have no idea what's going to happen in that regard. The court has survived a subway strike, and I'm sure that hopefully this does not happen. But I'm sure that we will deal with it when the time comes. You would not be the only person affected, obviously. So, I would not want you to be concerned about that.

Thank you.

THE PROSPECTIVE JUROR: You are welcome.

THE COURT: Let me ask you: Is your employer going to cover your jury duty?

THE PROSPECTIVE JUROR: Not until the probationary period is over.

THE COURT: When would that be over?
THE PROSPECTIVE JUROR: Roughly halfway into the trial.
THE COURT: So, you would not get paid anything --
THE PROSPECTIVE JUROR: Late July.
THE COURT: You're not getting paid now?
THE PROSPECTIVE JUROR: I will not be paid from my employer for this day.
THE COURT: Did you mention whether your wife is working or not?
THE PROSPECTIVE JUROR: Yes, my wife is working.
THE COURT: How will this affect you?
THE PROSPECTIVE JUROR: It will not be a financial hardship.
THE COURT: It won't?
THE PROSPECTIVE JUROR: It will not.
THE COURT: Thank you.
Juror 180. Good afternoon.
THE PROSPECTIVE JUROR: Good afternoon.
THE COURT: You had some encounters with the police. I think, as you said it, you were in the wrong place at the wrong time, is what you said. There was some sort of a bar raid?
THE PROSPECTIVE JUROR: Correct.
THE COURT: What happened? You were arrested? Did

you have to spend the whole night in the lockup?

THE PROSPECTIVE JUROR: Yes, I was in a holding thirty-plus hours for going to a happy hour and having a few drinks and the bar was raided and they took everyone to jail.

THE COURT: So, what happened? Did you go to court the next day?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And what happened with the charges?

THE PROSPECTIVE JUROR: I had just started a new job and I couldn't afford to go through a trial, so I had to plead guilty in order to just pay a fine and be released on my own recognizance.

THE COURT: Say that again?

THE PROSPECTIVE JUROR: I pled guilty, so I didn't have to go to court. I just paid my fine and I was released.

THE COURT: Okay.

THE PROSPECTIVE JUROR: It was trespassing they charged me with.

THE COURT: With trespassing.

How long ago was that?

THE PROSPECTIVE JUROR: Maybe eight to ten years ago.

THE COURT: Is there anything at all about that experience that you think would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: I mean, I've gotten over it at this point. At the time, my attitude may have been different. I would say no.

THE COURT: You're going to hear testimony from law enforcement people. Is there anything about your experience -- or you also mentioned that your husband and your brother, you said, were arrested for marijuana. I'm not sure if that was your husband or your brother?

THE PROSPECTIVE JUROR: Both.

THE COURT: Both of them?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And they were released and no charges were brought?

THE PROSPECTIVE JUROR: Correct.

THE COURT: Am I understanding that right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: So, you have had experiences yourself and your husband and your brother, and would any of those experiences affect your ability to assess the testimony of police officers in a fair and impartial way; in other words, not give them more or less credibility because they are officers?

THE PROSPECTIVE JUROR: No.

THE COURT: Just as a follow-up: You also mentioned that your husband had addressed these issues with respect to marijuana. Is there anything about the nature of the charges here that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: Thank you.

THE PROSPECTIVE JUROR: May I add something?

THE COURT: Of course. Please.

THE PROSPECTIVE JUROR: Since the questionnaire, I do have a medical condition that's going to require treatment. I'm already in treatment, starting tomorrow. I do have a schedule.

THE COURT: Why don't we talk to you up here, then.

(Sidebar.)

THE COURT: I want to give you some privacy. Are you okay?

THE PROSPECTIVE JUROR: Just a little nervous.

THE COURT: Don't be nervous. We're all friendly here.

THE PROSPECTIVE JUROR: Unfortunately, the day after the questionnaire, I and my husband cannot have children naturally. Tomorrow starts my first treatment. We have to go through in vitro fertilization to do that I would require to go to my doctor every single morning to have blood tests and sonograms. I brought all my paperwork. It's unfortunately it happened, it crossed lines with the jury service. Then, that's pretty much it.

THE COURT: All right. How long does this process have to go?

THE PROSPECTIVE JUROR: We're starting it now, because it all depends on your body. Due to a state lab shutdown in August, because they do auditing or whatever they do, it's do it now. And then it could take until August, until they shut the lab down. Then if it doesn't work, I have to restart it again in September.

THE COURT: Start all over again?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Any follow-up questions?

MR. AMATRUDA: No, your Honor.

MR. RINALDO: No, your Honor.

THE COURT: Thank you for telling us.

THE PROSPECTIVE JUROR: No problem.

THE COURT: Are you okay?

THE PROSPECTIVE JUROR: I'm okay. I'm a little jittery.

THE COURT: I understand. You can have a seat.

THE PROSPECTIVE JUROR: Thank you.

(In open court.)

THE COURT: Just chatting with our Juror 180. Thank you very much.

We do recognize that from the time that you filled out the questionnaire to today, things may have happened. And I also want to remind all of you -- and I think I mentioned it a little bit earlier, but in case it's not clear, if there is some reason why you feel you cannot serve on this jury, whether it's some kind of a hardship or anything that may have developed after the time that you filled out the questionnaire, you need to tell us today, so that we can address it and we can discuss it with you, because if you get chosen to serve on this jury, once you are chosen to serve, I'm not going to entertain any applications about, Well, we had travel plans, or there's some reason why I can't serve or I have medical appointments or whatever it is that may come up. This is the time to address it. Even if you don't know whether it's relevant or not, this is the time to raise it. We may decide it is relevant, and we'll make a decision accordingly, but we can't make the right decision unless you tell us, okay, because we're not in your mind and we don't know.

Again, a reminder for some of you who have knee problems and stuff like that or back problems, if you feel you need to stand in place, feel free to do that if you need to do that.

So, we're going to move along, and, again, thank you to Juror No. 180.

204 is not here.

So, we're moving along to No. 223. Good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: How long have you been a Brooklyn resident, ma'am?

THE PROSPECTIVE JUROR: Since 1970.

THE COURT: Just generally, you've been hearing me ask a lot of questions to folks about a number of different issues. Have you got any thoughts sort of generally about the criminal justice system? Is it fair? Is it not fair? We've had a conversation about perhaps ways it can be improved. Any thoughts?

THE PROSPECTIVE JUROR: It's a human institution and as such is fallible. In general, I think it's pretty good.

THE COURT: You mentioned that you get a lot of your news off the Internet, FaceBook, CNN and some radio. And you heard me discuss quite a bit about the fact that jurors are not going to be able to do any kind of research on the Internet or from any kind of media -- I guess people still use libraries, look at newspapers and things like that -- or read or listen to any kind of report about this case that may come over any kind of media. Would you be able to follow that instruction?

THE PROSPECTIVE JUROR: Yes. Like that gentleman over there said, I suppressed the desire to go on Internet and check anything when you said we cannot do that.

(CONTINUING)

THE COURT: Well, thank you very much, and you know, do you restore my faith, every time I talk to jurors, you all restore my faith in the jury system because sometimes I wonder whether the instructions are listened to or not and so I am very happy to hear that you will did do that.

Thank you very much, ma'am.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: And so, now we're moving on to our other row in the back over there.

Juror Number 225, good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: Your sister's boyfriend, I think, is a prosecutor in Pennsylvania?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you ever get a chance to talk to him about the work he does?

THE PROSPECTIVE JUROR: A little bit. It's just like prosecuting youth for spray-painting on stuff, things like that.

THE COURT: Okay.

THE PROSPECTIVE JUROR: That's the impression I get, but not a whole lot of conversation, no.

THE COURT: Is there anything about those conversations or the work that he does that you think would affect your ability to be fair and impartial in this case?

THE PROSPECTIVE JUROR: No.

THE COURT: You had a couple of incidents, this relates to, I think, it's question 28. There was a shooting outside your apartment, if I have it right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: That there were some thoughts that it might be gang-related and someone was murdered outside of your girlfriend's apartment.

Was there any follow-up in connection with that? Do you know whether anyone was arrested in connection with either of those two incidents?

THE PROSPECTIVE JUROR: The second one, the one outside my apartment, people were arrested because they went back to the scene to try to fetch the gun that had been fired and they got caught because the police were there.

And the first one, where someone was murdered, I'm not sure if anyone was arrested.

THE COURT: Were you a witness in any way to any of those incidents?

THE PROSPECTIVE JUROR: No.

THE COURT: Do you know what the outcome was, other than some people were arrested?

THE PROSPECTIVE JUROR: I know for the one outside my apartment some people went to trial. I'm not sure what the consequences were, but the one with the murder, I'm not certain.

THE COURT: Is there anything about those two incidents that would affect your ability to be fair and impartial here?

THE PROSPECTIVE JUROR: No.

THE COURT: You were going to see whether your job pays for jury duty.

Were you able to find out?

THE PROSPECTIVE JUROR: Yes, they pay.

THE COURT: Okay.

You mentioned something about the possibility of some clinical trials in August. What is the status of that?

THE PROSPECTIVE JUROR: It's a clinical trial for Type I diabetes research. They received the funding and they're sort of getting the trial in motion, but I am their primary candidate, but we haven't really had any conversations beyond that at this point.

THE COURT: So, is it possible that that could be pushed over until the end of this case if you were chosen to serve?

THE PROSPECTIVE JUROR: I'm not certain.

THE COURT: Okay.

Are you, yourself suffering from diabetes?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Are you okay right now?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do we need to make any accommodations?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay.

Thank you.

MS. FARHADIAN: Your Honor, may we just add one question?

THE COURT: Yes.

MS. FARHADIAN: I believe this juror has been in his job for eight months.

Can you please inquire about what he did previously?

THE COURT: Were you working before your present job?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What were you doing before that?

THE PROSPECTIVE JUROR: I worked for a chapter of nonprofit that does diabetes research. The same organization, different job.

THE COURT: I see.

Were you doing research yourself?

THE PROSPECTIVE JUROR: No.

THE COURT: In what capacity were you working with them?

THE PROSPECTIVE JUROR: I worked in fund-raising.

THE COURT: In fund-raising. Okay, thank you.

Juror 240, good morning.

THE PROSPECTIVE JUROR: Good morning.

THE COURT: You are going have to keep your voice up so we can hear you.

You have been working at your current job for about three years, were you working before that?

THE PROSPECTIVE JUROR: No, I just finished school before that.

THE COURT: You just finished school.

What was your major?

THE PROSPECTIVE JUROR: English.

THE COURT: English.

Is your employer going to cover your jury service?

THE PROSPECTIVE JUROR: Yes. Yes, she is. They are.

THE COURT: Okay.

I am going to ask you sort of that general question. Do you have any thoughts, just generally, about the criminal justice system, whether it's fair or not fair, is there any way that it can be improved or not.

THE PROSPECTIVE JUROR: I'm pretty ambivalent about the whole process, so.

THE COURT: What do you mean by ambivalent about the whole process?

THE PROSPECTIVE JUROR: Nothing's perfect, so.

THE COURT: So, I am not sure what that means.

THE PROSPECTIVE JUROR: I don't really have any like, concrete opinions regarding it.

THE COURT: Okay, thank you.

THE PROSPECTIVE JUROR: May I also add, I have a change to my circumstances?

THE COURT: Yes.

THE PROSPECTIVE JUROR: I am actively interviewing right now, so that might be a hindrance to being able to serve jury duty.

THE COURT: What do you mean by actively interviewing?

THE PROSPECTIVE JUROR: I'm look to pursue an opportunity.

THE COURT: Well, we don't meet on Fridays, so is it possible you can just set your interviews on Fridays?

THE PROSPECTIVE JUROR: I could try, but like I said, it's kind of difficult, so.

THE COURT: Well, but you are currently employed, right?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. Well, given that the fact that if you were chosen to serve, then you should, in discussing this with any prospective employer, you should tell them that you are currently serving on a jury and you don't meet on Fridays and can they accommodate that.

THE PROSPECTIVE JUROR: Yes, I've made comments regarding that and they said we'll work around that, depending on how thing go.

THE COURT: All right, okay. Sounds good, thank you.

Juror Number 246, good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: You have a brother and an uncle and two cousins who are with the NYPD.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you get to talk to them about the work they do?

THE PROSPECTIVE JUROR: Briefly, but nothing in detail.

THE COURT: Do you know whether any of them work in the narcotics division?

THE PROSPECTIVE JUROR: Yeah, my one cousin.

THE COURT: One of your cousins does?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you ever talk to him or her about that?

THE PROSPECTIVE JUROR: No.

THE COURT: About the work?

THE PROSPECTIVE JUROR: No.

THE COURT: You heard me mention that there is that legal principle that the jury has to evaluate testimony of law enforcement personnel the same way as any other witness, not give their testimony more weight or less weight or believe them more or believe them less because they are police officers.

Would you be able to follow that instruction?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you have any favorite TV shows or things you like to read? We asked about news, but we didn't ask sort of generally.

THE PROSPECTIVE JUROR: I watch cooking channels a lot.

THE COURT: Cooking channels?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You like to cook a lot?

THE PROSPECTIVE JUROR: Yeah.

THE COURT: Yes? Any other kind of shows that you like to watch, movies?

THE PROSPECTIVE JUROR: Nothing regular, no.

THE COURT: So, what do you do in your spare time?

THE PROSPECTIVE JUROR: Sleep.

THE COURT: That sounds good to me.

THE PROSPECTIVE JUROR: I work long hours, so.

THE COURT: Can you tell us a little bit about what you do for this merchandising retail company?

You're a manager. And that means you supervise other people?

THE PROSPECTIVE JUROR: Yes. There's about 20 managers that work in our company and we each have a section. I merchandise the floor, putting out new items, stuff like that.

THE COURT: Is your company going to be paying for your jury service?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Thank you.

247 is not here.

Juror 251, good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: Again, we really have tapped into the military. You were in the Army 23 years, did I get that right?

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: Apparently, you were involved in military tribunals?

THE PROSPECTIVE JUROR: I was involved in military courts, yes, ma'am.

THE COURT: Could you tell us a little bit about what that involved? Hopefully, it's nothing classified.

THE PROSPECTIVE JUROR: Nothing classified. I proffered charges and I was also serving on juries.

THE COURT: So you served on the military jury?

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: How long ago was that?

THE PROSPECTIVE JUROR: Mid-'80s.

THE COURT: Without telling us what the actual verdict was, did it reach a verdict, the jury?

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: Did you ever serve in the capacity as a military police officer?

THE PROSPECTIVE JUROR: No, ma'am.

THE COURT: Is there anything about the experience that you had with the military tribunals that you think would affect your ability to be fair and impartial in this case?

THE PROSPECTIVE JUROR: It would not affect me, no, ma'am.

THE COURT: You have a son who is in EMS in the Fire Department of New York?

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: Do you get to talk to him about the work that he does?

THE PROSPECTIVE JUROR: Occasionally. He mainly talks with his mother, not me.

THE COURT: Oh, okay. Do you know, in any of the discussions that you have had, either directly with him or perhaps you've chatted with your wife about her conversations with him, has he ever sussed whether or not he, in the course of his work, has come across shooting victims or people have been the victim of drug abuse or anything like that?

THE PROSPECTIVE JUROR: All of the above.

THE COURT: All of them.

Is there anything about those conversations and what he has discussed that you think might affect your ability to be fair and impartial, given the charges here?

THE PROSPECTIVE JUROR: No, ma'am.

THE COURT: You also mentioned that currently you are in retail management and you also mentioned that some of your work associates are either on the police force or have retired from the police force. I am going to ask you the same question I have asked some of your fellow jurors.

Would you be able to follow my instruction that the testimony of any law enforcement people must be not be given greater weight or less weight because they are police officers? Would you be able to follow that instruction?

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: You have mentioned, this is in reference to question number 24, which asked whether you, a family member or a close friend had ever been a witness to or a victim of a crime. You mentioned that yes, for yourself.

Several shoplifting cases, but I wasn't sure if you had been a victim or a witness or both of those.

THE PROSPECTIVE JUROR: Both.

THE COURT: So, as a victim, did you press charges?

THE PROSPECTIVE JUROR: On behalf of my company, I have, yes, ma'am.

THE COURT: Okay. Did you have to testify?

THE PROSPECTIVE JUROR: Not in trial, only in depositions.

THE COURT: Okay. Is that what you mean by being a witness; you had to testify at those depositions?

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: Okay.

So, at these depositions, were you questioned by attorneys?

THE PROSPECTIVE JUROR: Yes, ma'am.

THE COURT: Was there a judge present at the deposition, do you recall?

THE PROSPECTIVE JUROR: I believe there was an administrative Judge, I'm not sure.

THE COURT: Of course, witnesses are going to come to court in this case and they are going to be questioned by the attorneys. The defendants don't have to do anything, if they don't want to. The attorney don't have to do anything because they don't have the burden of proof, but odds are they are going to want to ask questions of the witnesses.

Having been a witness yourself and questioned by lawyers, do you think that in some way that might inject itself into the way you evaluate the testimony of any witness?

THE PROSPECTIVE JUROR: I don't believe so, no, ma'am.

THE COURT: You also mentioned that you might be concerned about financial hardship, that this case will likely take about six to seven weeks, go to mid-August. We're hoping, of course, not any further.

Would you just elaborate on what you mean by that?

THE PROSPECTIVE JUROR: At that time I was unsure of the company policy on payment. They pay, so I'm fine.

THE COURT: Okay, great. Thank you.

Juror 252, good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: I gather you are retired.

THE PROSPECTIVE JUROR: Yes.

THE COURT: What did you retire from?

THE PROSPECTIVE JUROR: Postal Service, 39 years.

THE COURT: Postal Service.

THE PROSPECTIVE JUROR: Yes.

THE COURT: What were you doing for the Postal Service?

THE PROSPECTIVE JUROR: Financial. Inside. Window service.

THE COURT: Okay.

You have served on several juries.

THE PROSPECTIVE JUROR: Yes.

THE COURT: State juries. What did you think about the experience?

THE PROSPECTIVE JUROR: I have mixed emotions.

THE COURT: In what sense?

THE PROSPECTIVE JUROR: Well, a couple of the juries I was on, unfortunately, the jurors weren't very -- I mean, it didn't work out the way it should have.

THE COURT: Do you think that the experiences that you have had in those cases would affect your ability to be a fair and impartial juror in this case?

THE PROSPECTIVE JUROR: I would hope not.

THE COURT: Well, what gives you some pause?

THE PROSPECTIVE JUROR: It's, the only thing that bothers me is I would have to actually see the case itself, beyond the case, I mean, I'm being honest. I'm trying to be as honest as I can. I would hope I would be as fair as I could be. I've always felt that way, but being on juries so many times, I've got some bad feelings from juries that were picked, it just didn't work out the way I thought it would.

The jury system is fine. I'm just saying I have bad, you know, experiences.

THE COURT: Well, I am always hopeful, of course, that any jury experience by any one of my juries would be a positive one. All we can ask of jurors when they are chosen to serve is that they keep an open mind throughout the trial.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Right? And to fairly and impartially look at the evidence, figure out what the facts are and then apply the law as I give it, regardless of what their position about the law may be. They may not like it.

THE PROSPECTIVE JUROR: Right.

THE COURT: They may think it should be different, but they have to accept it as I give it.

THE PROSPECTIVE JUROR: Right.

THE COURT: And then apply those facts to the law and then, importantly, go into that jury room when it is time and discuss it among yourselves.

THE PROSPECTIVE JUROR: Yes.

THE COURT: If you were chosen to serve here, would you be able to do that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: It has been a while since you served on a jury.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Four years.

Would you be able to set aside whatever those experiences were and treat this as a brand new experience?

THE PROSPECTIVE JUROR: I would try -- I'd try, yes.

THE COURT: Thank you.

MR. AMATRUDA: Your Honor, before we move on to the next juror, I apologize, but Juror Number 251, the previous juror, I was just wandering if Your Honor would consider inquiring whether the juror's relative's legal problem, whether he felt there was anything to that, the way that was handled that would affect his ability.

THE COURT: Oh, yes, I'm sorry.

MR. AMATRUDA: I'm sorry about that.

THE COURT: Okay. Well, let me finish with Juror Number 252 first and then we will go back.

You were the victim of a crime. You were mugged?

THE PROSPECTIVE JUROR: Yes.

THE COURT: How long ago was that.

THE PROSPECTIVE JUROR: 1987 or '88.

THE COURT: Did you report it to the police?

THE PROSPECTIVE JUROR: Of course, yes.

THE COURT: Was anyone ever arrested?

THE PROSPECTIVE JUROR: Not that I know of.

THE COURT: Was there any weapon used?

THE PROSPECTIVE JUROR: I didn't want to find out. I was attacked from behind and he only wanted my money, so I give him my money, he gave me my wallet back. That's what happened.

THE COURT: How do you feel about the way that that was handled?

THE PROSPECTIVE JUROR: By the police?

THE COURT: Yes.

THE PROSPECTIVE JUROR: Very well.

THE COURT: Is there anything at all about that, that you think would impact on your ability to be fair and impartial?

THE PROSPECTIVE JUROR: Oh, no, no.

THE COURT: Thank you.

All right so, let's go back to Juror Number 251.

You had two brothers -- I am assuming it is two different brothers -- who had conflicts with the law, one charged with embezzlement and one charged with armed robbery.

What happened to the brother who is charged with embezzlement?

THE PROSPECTIVE JUROR: They settled out of court, he paid back the money he owed and he had a record and he went on with his life.

THE COURT: Okay. With respect to the other brother who was charged with armed robbery?

THE PROSPECTIVE JUROR: He was a drunk and he got what he deserved.

THE COURT: So, he had issues with alcohol.

Is there anything about that fact and the fact that this case involves drugs that would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: Alcohol is a problem in my family.

THE COURT: Okay.

THE PROSPECTIVE JUROR: It's something we deal with. Thankfully, I don't have it. Everyone else seems to have it. I don't think it would affect me, but I can't be a hundred percent sure it would not.

THE COURT: Well --

THE PROSPECTIVE JUROR: I do not like drugs. Period.

THE COURT: Okay. Well, I think it might be fair to say that I think most people would say that they don't like murders or people getting robbed or things of that nature. The question is whether, if you were chosen to serve on this case, would you be able to keep an open mind and evaluate the case just on the evidence presented when the time comes, as I said before, given the instructions that I will give to the jury and the facts as the jury finds them to be, make a decision as to whether or not the Government has sustained the burden of proof beyond a reasonable doubt as to the charges.

Would you be able to do that?

THE PROSPECTIVE JUROR: That, I can do.

THE COURT: Would you be able to set aside any biases or thoughts of sympathy, punishment or anything like that in reasoning that decision?

THE PROSPECTIVE JUROR: Yes, I would.

THE COURT: Thank you.

Okay, we are almost near the end, the last but not least. Juror 254, good afternoon, ma'am.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: You are retired a little over three years now from publishing?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Are you not working at all now?

THE PROSPECTIVE JUROR: No.

THE COURT: Congratulations to you.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: What did you do in connection with publishing?

THE PROSPECTIVE JUROR: I was an editorial assistant.

THE COURT: You were an editorial assistant.

THE PROSPECTIVE JUROR: To the vice president of the company.

THE COURT: Okay. You have a daughter, who is with the FBI?

THE PROSPECTIVE JUROR: No, she applied for the FBI.

THE COURT: Oh, she applied with the FBI, okay.

THE PROSPECTIVE JUROR: Yeah.

THE COURT: Did she get the job?

THE PROSPECTIVE JUROR: No.

THE COURT: Okay. You mentioned that you served on two juries.

THE PROSPECTIVE JUROR: Yes.

THE COURT: It was a criminal jury and a civil jury?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you recall whether it was a trial jury or a Grand Jury?

THE PROSPECTIVE JUROR: On both we had a trial.

THE COURT: Both of them were trials?

THE PROSPECTIVE JUROR: Yes.

THE COURT: And they both went to verdict?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What do you think about the experience that you had sitting on a jury?

THE PROSPECTIVE JUROR: It was very interesting.

THE COURT: Is there anything at all about that experience that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: You mentioned that your daughter was robbed when she was still in high school.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Was she injured?

THE PROSPECTIVE JUROR: No.

THE COURT: Was it reported to the police?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Was anyone arrested in connection with that?

THE PROSPECTIVE JUROR: No.

THE COURT: What do you think about the way that her situation was handed?

THE PROSPECTIVE JUROR: It was okay, but they didn't ever find the people, but it was handled good.

THE COURT: Okay.

You also mentioned that there are some friends or family members who have had some kind of encounter with law enforcement.

THE PROSPECTIVE JUROR: Yes.

THE COURT: Do you know any details about that?

THE PROSPECTIVE JUROR: No, not really, no.

THE COURT: Do you ever talk to them --

THE PROSPECTIVE JUROR: No.

THE COURT: -- about their experience and their thoughts about how they were treated?

THE PROSPECTIVE JUROR: No.

THE COURT: Is there anything about that, that you think would affect your ability to be fair and impartial?

THE PROSPECTIVE JUROR: No.

THE COURT: Is there any reason why you think that you might not be able to serve on this jury?

THE PROSPECTIVE JUROR: No.

THE COURT: Thank you.

And finally, Juror 262, good afternoon.

THE PROSPECTIVE JUROR: Good afternoon.

THE COURT: Where did you complete your schooling; in Russia or in the United States?

THE PROSPECTIVE JUROR: In Russia.

THE COURT: In Russia. Before you were at your present job, were you working?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What kind of work did you do?

THE PROSPECTIVE JUROR: I do the programming.

THE COURT: In the same field?

THE PROSPECTIVE JUROR: Yes, same field.

(Continued on following page.)

THE COURT: Okay. There were certain questions about any feelings about any organizations or laws related to guns and to drugs. You mentioned that you have strong feelings against the NRA and gun laws have to be more strict.

You also mentioned that drug laws or laws toward drug related crimes should be more strict.

You have heard the nature of the charges here. There are allegations of drug distribution and also allegations of murder and murder for hire.

Would you be able to, if chosen to serve on this case, evaluate the case just on the evidence presented and the law as I give it, whether you agree with the law or not?

Would you be able to do that fairly and impartially?

THE PROSPECTIVE JUROR: I will do my best.

THE COURT: I'm sure when the lawyers hear, I will do my best, they get a little bit nervous because we want to obviously be sure that you will be able to do that.

THE PROSPECTIVE JUROR: I should be able to do that.

THE COURT: Okay. It is sort of related to that and may sound like it is a little bit repetitive, but it is important.

If the jury comes to a decision unanimously, that the government has sustained its burden of proof beyond a reasonable doubt and finds the defendants guilty, any thoughts about punishment are really not to concern the jury because that will be up to the Court, up to me, alone.

Would you be able to render any verdict free from any thoughts about punishment?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Could you just say that again? I couldn't hear you.

THE PROSPECTIVE JUROR: No. I should be able to judge objectively.

THE COURT: Okay. Are you certain about that?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. You had some concerns about your job. You mentioned that you are very busy at the moment.

THE PROSPECTIVE JUROR: I think my company will pay.

THE COURT: I'm sorry?

THE PROSPECTIVE JUROR: I think my company will pay but I am kind of in a role right now where I have to leave a project which will be due October-November deadline.

THE COURT: When is your deadline?

THE PROSPECTIVE JUROR: October-November.

THE COURT: Okay. We should be done by about the second week of August.

THE PROSPECTIVE JUROR: It is in full swing now.

THE COURT: I'm sorry? I am having trouble hearing you. If you could speak up louder?

THE PROSPECTIVE JUROR: The project in the full swing right now.

THE COURT: We are not going to meet on Fridays. So will that help to ease that concern?

THE PROSPECTIVE JUROR: No. It probably -- they will hire somebody else. They will keep me because it's the company policy but I don't think I will be on this project.

THE COURT: You think you will be kicked off the particular project?

THE PROSPECTIVE JUROR: Probably.

THE COURT: You said the job will probably pay you for your jury service?

THE PROSPECTIVE JUROR: I think so.

THE COURT: You also raised a concern about drug related crimes in your area.

Again, is that something that you think, given the nature of the charges here, that might find its way into how you make a decision in this case?

THE PROSPECTIVE JUROR: I don't think so.

The only thing I should mention, I will be out July 3rd and July 7th.

THE COURT: You will be out when?

THE PROSPECTIVE JUROR: I will be away.

THE COURT: When?

THE PROSPECTIVE JUROR: July 3rd and 7th.

THE COURT: July? I didn't hear the first.

THE PROSPECTIVE JUROR: July 3rd and 7th.

THE CLERK: The seventh is Monday.

THE COURT: What is that, a trip?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Have you been able to follow us along, all the discussions that I have had?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay. All right.

Let me just see counsel briefly with the reporter.

(Side bar.)

THE COURT: It's 1:15 now. Do you want to take five minutes to caucus and decide who you want to come back or not? I can have them -- well, rather than have them leave the room, if you want to just do that and I will tell them they can stretch in their places.

MR. AMATRUDA: We will do our arguments for cause? That's what you mean?

THE COURT: Yes. We could do this at the side bar.

MR. AMATRUDA: Yes.

MS. FARHADIAN: So the cause people can just leave.

THE COURT: This way we can decide whether they will come back or not at 2:15.

MR. RUSSELL: Is the conference room open?

THE CLERK: I will check.

MR. RUSSELL: We will just go -- since it's four of us.

THE COURT: I see. Why don't I just have them step out? It will be easier. I just have a concern about your clients.

MR. RUSSELL: Okay.

THE COURT: You know what I mean?

MR. RUSSELL: You are right.

THE COURT: Why don't we do that?

MR. RUSSELL: Right.

THE COURT: Let's do that.

(In open court.)

THE COURT: I know that we have gone -- normally we take lunch at about 1:00 o'clock. We have gone a little bit past but we are trying to move the process along so that we could make a decision of who we need to come back this afternoon and who can go home.

So I am going to give you another break for 15 minutes, about 15 minutes. I am going to ask you to congregate outside at 1:30. This way you can stretch, go to the ladies room, men's room, if you have to.

All right. Then this way I can conference with the lawyers. I think some of you will be a little bit more comfortable, able to move around a little bit. Then we will let you know what's going to be what and you will have a lunch break too. I know some of you may be hungry and we will see you back here at 1:30.

Remember, you can't talk about anything among yourselves or with anybody else, do any kind of research or investigation concerning this case or read or listen to anything concerning this case.

All right. Make sure you take anything that's important and, again, wait outside at 1:30 and don't come in until we bring you in.

All right. Thank you.

It should not be much longer.

THE PROSPECTIVE JUROR: I have a doctor's appointment.

THE COURT: You have a doctor's appointment?

THE PROSPECTIVE JUROR: At 3:00 o'clock.

THE COURT: Why didn't you tell us that? You should have told us that.

Okay. You are going to need to go outside and wait and we will bring you back in at 1:30.

THE PROSPECTIVE JUROR: Okay.

(The following occurred in the absence of the prospective jury panel.)

(Pause.)

THE COURT: We've got a few minutes before we have to bring these folks in. I'm sure they are starving and we have some diabetics.

Can I ask you to take your seats and speak into the mike?

Mr. Pinkney and Mr. Taylor are here.

Okay. Let's take them one by one.

Juror number one?

MS. FARHADIAN: No problem.

THE COURT: Juror number one?

MR. HERMAN: No issues with number one, Judge.

THE COURT: Okay. Juror number one stays.

Juror number six?

MS. FARHADIAN: No problems.

MR. RINALDO: No problem.

THE COURT: Okay. Juror number 13?

MR. RINALDO: Judge, 13 from the defense point of view, this is the self-employed, he won't get paid at all, Ukrainian interior designer.

THE COURT: Right.

MR. AMATRUDA: We consent to 13.

THE COURT: Okay. So 13 is on consent for cause.

Number 18?

MS. FARHADIAN: No problem.

MR. RINALDO: No.

MR. RUSSELL: Nothing.

THE COURT: Number 21?

MS. FARHADIAN: No problem.

MR. RINALDO: Judge, I think we have her for cause. It's the financial hardship. She is not -- she doesn't know if she is going to get paid.

THE COURT: Yes. You know what, I should have -- we can ask her to call her employer during the lunchtime and find out. They don't have access to their phones. Her husband is employed. The question is, she doesn't know whether the job pays.

MR. RINALDO: I thought we have enough in the pool anyway, Judge, but that's fine.

THE COURT: We are going to keep her for now and have her call her employer over lunch and then let her tell us before we do anything.

(Continued on next page.)

THE COURT: No. 33.

MS. FARHADIAN: No problem.

MR. HERMAN: No problem.

THE COURT: He stays.

No. 46.

MS. FARHADIAN: No problem.

MR. RINALDO: Nothing, your Honor.

THE COURT: No. 53.

MS. FARHADIAN: No problem.

MR. RINALDO: No problem, your Honor.

THE COURT: No. 54.

MS. FARHADIAN: No problem.

THE COURT: For the defense.

MR. RINALDO: No problem.

THE COURT: I need to hear you.

THE COURT: 507 we already excused on consent for medical reasons.

61.

MS. FARHADIAN: No problem.

MR. RINALDO: No problem.

THE COURT: 77.

MS. FARHADIAN: No problem.

MR. RINALDO: No problem.

THE COURT: 85.

MS. FARHADIAN: Your Honor, this juror I think we should have a conversation about it. I believe she very much would like to serve. I'm worried some of those questions about child care are not resolved.

THE COURT: She has to work.

MR. RUSSELL: We consent.

THE COURT: What?

MR. RUSSELL: We consent. I thought it was a child-care issue, the more we got into it. I thought it was a child-care issue.

THE COURT: All right. Consent cause, 85.

THE COURT: No. 94. He's the cab driver.

MR. AMATRUDA: Consent cause.

MR. RINALDO: Yes, agree.

THE COURT: Okay.

No. 101.

MS. FARHADIAN: No problem.

MR. RINALDO: Judge, I don't know how you feel about that. That's the gentleman with the bad knees.

THE COURT: Now, it turns out he has a doctor's appointment at 3:00 o'clock that he didn't tell us about this morning.

MS. FARHADIAN: He's still working, and he said he would get paid if he serves. I don't think jury service is more taxing health-wise than what he does.

MR. AMATRUDA: He's also an inspector, which, as a construction inspector, it would be pretty surprising if he didn't have to get up and walk around.

THE COURT: I don't think getting up and walking around is his problem.

MR. RUSSELL: It's sitting.

THE COURT: It's the sitting down that's the problem. I'm going to grant the defendants' cause challenge.

No. 107 at the sidebar, there was a consent based -- for cause based on anonymity compromise.

MR. RINALDO: Yes, your Honor.

THE COURT: 119.

MR. AMATRUDA: Cause.

MR. RINALDO: Consent to cause.

THE COURT: Consent for cause, 119. That's the person who would believe cops more.

121.

MS. FARHADIAN: No problem.

MR. RINALDO: No problem.

THE COURT: 139.

MS. FARHADIAN: No problem.

MR. RUSSELL: No issues.

MR. HERMAN: No problem.

THE COURT: 144.

MR. AMATRUDA: No issues.

MR. RINALDO: No problem, your Honor.

MR. RUSSELL: No issues, Judge.

THE COURT: 156 had a financial hardship.

MR. AMATRUDA: Cause.

MR. HERMAN: Consent, Judge.

THE COURT: That's 156 on consent.

158.

MR. AMATRUDA: I believe we would move for cause.

THE COURT: Based on?

MR. AMATRUDA: The standard is, they don't get paid. She's not getting paid.

THE COURT: There's financial hardship and there's financial hardship. She lives at home rent-free. The bottom line is, her bills consist of maybe some credit card payments and -- not even. She mentioned that she spends money on food. She's going to get a $40 stipend for every day. We can have the jury clerk expedite the payments, so that she'll get them at the end of the week, and she can pay her bills that way. She's not paying rent, she's not paying student loans. I might feel differently if she was paying student loans. She has no children.

MR. AMATRUDA: She's someone who helps her family with grocery money. You're not talking about people with a lot of money here. She's contributing grocery money to her family while she's living at home. That sounds like the type of situation where it's not --

THE COURT: Her father is a postal worker. Her mom is a stay-at-home mom. Her brother is twenty-six years old. She can go get a job at McDonald's, and she's going to get a jury stipend of $40 a day, and she can go to work on Friday. I do not think that this is the kind of financial hardship that we're talking about, with the cab driver who does not get paid at all and who has to pay rent and who has to pay everything else.

So, no, she stays. 158 stays.

165.

MR. AMATRUDA: Cause.

THE COURT: I thought that might be a consent.

MR. RINALDO: Yes, your Honor.

MR. RUSSELL: Yes, your Honor, consent.

THE COURT: He worked at the border as a military police officer. Yes.

MR. RINALDO: Yes, your Honor.

MR. AMATRUDA: Yes, your Honor.

MR. RUSSELL: Yes, your Honor.

THE COURT: I need to hear the lawyers talk, because otherwise, I don't know what's going on.

176, I think, is okay.

MR. AMATRUDA: Yes.

MR. HERMAN: Okay with the defense.

MR. RUSSELL: Okay with the defense.

THE COURT: 177.

MS. FARHADIAN: Yes. That's the administrative secretary for corrections.

MR. HERMAN: No problem.

MR. RUSSELL: No issues.

THE COURT: 178.

MR. RUSSELL: No issues.

MR. HERMAN: No issue from the defense.

MS. FARHADIAN: No issue.

THE COURT: 179.

MS. FARHADIAN: No issue.

MR. RINALDO: No issue from the defense.

MR. RUSSELL: No issue.

THE COURT: This is the person who does not get paid until mid-July.

MS. FARHADIAN: But he said it's not a hardship.

THE COURT: That's right, he did thank you. So, 179 stays.

180.

MS. FARHADIAN: Consent.

MR. HERMAN: Consent.

THE COURT: Consent for medical issues.

204 was not here.

223.

MS. FARHADIAN: No problem.

MR. RINALDO: No problem.

MR. RUSSELL: No issues.

THE COURT: 225.

MS. FARHADIAN: We thought this was for cause, because he seems to be the subject of a medical study.

THE COURT: Yes. He doesn't know when these trials are supposed to start, and even in his answer, he thought they were towards the end of August.

MS. FARHADIAN: I'm sorry. I didn't hear him say end.

THE COURT: That was in the questionnaire, that apparently none of you looked at.

MR. RUSSELL: No challenge for cause.

THE COURT: 225 stays.

240.

MS. FARHADIAN: No problem.

MR. RUSSELL: No issue.

MR. HERMAN: No problem.

THE COURT: 246.

MS. FARHADIAN: No problem.

MR. HERMAN: No problem.

MR. RUSSELL: No issue.

THE COURT: 247 also was not here.

251.

MR. HERMAN: We have an application for cause. This individual, the more he spoke, the more it appeared that he had a very harsh attitude. He said his brother got caught with drugs, he got what he deserved. He said very emphatically he did not like drugs. He has been a military prosecutor.

THE COURT: He was not a prosecutor. He served on a military jury. It sounds like he brought charges against somebody, not as a lawyer.

MR. HERMAN: I think he said he procured charges. I didn't quite get the terminology. This was not just being a juror, it was someone who brought charges.

MS. FARHADIAN: I don't think you can bring charges if you are not a lawyer.

MR. HERMAN: That's what he told us, Judge.

THE COURT: But that doesn't preclude him. I questioned him quite a bit about the drug issue.

Does the government wish to be heard?

MS. FARHADIAN: Yes. We don't think there's a reason to strike him for cause. When he said that he does not like drugs, period, the Court did ask him if he could separate -- put his policy opinions aside and be a fair and impartial juror. He was an intelligent person. He understood what you were asking him, and he said, yes, he could serve.

THE COURT: Challenge for cause as to 251 is denied.

252.

MS. FARHADIAN: We have no problem.

MR. RUSSELL: Judge, we have a for-cause.

THE COURT: Based on?

MR. RUSSELL: Your Honor, his exact statement was that his jury experience, it didn't work out the way it should have. Now, the Court questioned him about what he meant -- didn't question him directly, What did you mean, the way it should have. You questioned him about trying to be fair, trying to be impartial, trying to be not biased. And he didn't respond with an unequivocal answer, and that is the key.

I think there can be no equivocation whatsoever in those type of answers that he's given to the Court. He equivocated. He altered his answer to be a little less aggressive. But nonetheless, the experience was not an experience that he liked, and nonetheless, he did not shy away from that he had a certain perspective that should have come out of those cases and it didn't. I don't know what that was. I don't know if that was a perspective that the person should be innocent or guilty. He definitely had a perspective.

THE COURT: Does the government wish to be heard?

MS. FARHADIAN: We don't think he's a strike for cause. The fact that he had a bad experience, and we don't know why, with jury service in 1978, I don't think means that he can't be a juror, again, particularly when he did say he would set it aside in his exchange with the Court and he understood that this is a different case.

MR. RINALDO: Judge, if I've got it right, he has three prior jury experiences, and he's indicated that they were all bad experiences. I think cocounsel is correct, it sounds like a juror who didn't get his way in the verdict and he's angry about it and upset about it. I agree. I think it's enough for cause, based on his answers.

MR. RUSSELL: I don't want to make light of his statement that he necessarily didn't get his way. When he said it should have gone a certain way and it didn't, I think those words speak volumes.

THE COURT: I'm going to grant the defendants' challenge for cause as to 252.

254.

MS. FARHADIAN: No problem.

MR. RINALDO: No issues.

MR. RUSSELL: No issues.

THE COURT: Finally, 262.

MR. HERMAN: Now, he's going to be out on Monday, he said.

THE COURT: Right. He has a concern about being picked off a project, and he expressed strong views about guns and drugs. I got a sense that he was trying to be politically correct in his responses in contradiction to the strength of his feelings about guns and drugs. Is that a consent for cause?

MR. RUSSELL: Yes, your Honor.

THE COURT: Yes. Okay. Consent cause.

So, it will be easier for us just to double-check and go through the strikes for cause just to make sure we're all on the same page.

So, 13, 57, 85, 94, 101, 107, 119, 156, 165, 180, 252 and 262?

MR. RINALDO: Correct.

THE COURT: That's everyone?

MR. HERMAN: That's what we have, Judge.

MS. FARHADIAN: Yes.

THE COURT: All right.

It's already a quarter to 2:00. I feel like given that we have some diabetics we have kept on, that maybe they should have a full hour for lunch, although I understand that our jury clerk has all the jurors report at least an hour early. I suspect the jurors we told to come at 2:15 are probably there already. But I think ultimately, these people have been here since 8:30 in the morning. So, I would like to give them the full hour of lunch.

We'll have them come back at a quarter to 3:00.

Let's bring them in.

(Prospective jurors enter courtroom.)

THE COURT: Take the seats that you had earlier, please. I promise we're only going to keep you just a few more minutes longer.

Welcome back, ladies and gentlemen.

Do the parties agree that all of our prospective jurors are present and properly seated?

MR. AMATRUDA: Yes, your Honor.

MR. RUSSELL: Yes, your Honor.

MR. RINALDO: Yes, your Honor.

THE COURT: So, I want you to listen very carefully. Please remain in your seats until I actually dismiss everyone. I want you to listen very carefully, and I am going to give the numbers of those jurors who are excused from this case. If you hear your number, you can go home or go to work or whatever it is that you want to do. You do not have to come back. That's only for the people whose numbers I'm going to call.

So, that would be Nos. 13, 57, 85, 94, 101, 107, 119, 156, 165, 180, 252 and 262. You are excused from this case. You can go home and do whatever you want to do.

The rest of you -- I asked everyone to sit, please, and wait. The rest of you, you can take your lunch and come back inside here at a quarter to 3:00, at 2:45. We're going to pick up with the jury selection process this afternoon. I know it's been a long day for you all. Some of you have been here since 8:30 in the morning, and some of you I know have dietary issues and so on. That's why I want to make sure that you have a full lunch break.

Sir, you need to step out.

So, have your lunch. Those of you if you did not hear your number, you need to come back. Remember what I said, you can't discuss this case with anyone. That includes the jury selection process. You can't do any kind of research or any kind of investigation or look at or read any account that may be reported in connection with this case or any other parties connected with this case. We thank all of you for your patience and for your willingness to serve and for your honest answers.

So, if you didn't hear your number, we'll see you back here at 2:45. Wait outside until we actually bring you in, please.

(Prospective jurors leave courtroom.)

(Continued on next page.)

(CONTINUING)

(In open court; outside the presence of the jury.)

THE COURT: I am just going to keep you for two more minutes.

That gentleman that I asked to leave is prospective Juror Number 48. He is the fellow that came back yesterday afternoon, after he realized that he had to come back that claimed that he had some scheduling issues.

What is disturbing besides that, he didn't raise anything after we actually spoke with him at some length yesterday, is that he was told specifically to report to the central jury room and he didn't do that. He came up here instead, apparently, and bypassed two sets of signs that ask the jurors not to come in unless they were told to come in. The signs are simple and the letters are pretty big, I made those signs myself.

So, I am just a little disturbed by that and I always like to share with the parties anything that I find disturbing and you make your choices, all right?

So, let's let these gentlemen have something to eat, the marshals, too, and I will see everybody back here at 2:45.

MR. HERMAN: Judge, do you anticipate we're going to be striking jurors this afternoon?

THE COURT: Yes.

MR. RINALDO: Thank you, Judge.

MR. HERMAN: Thank you.

MR. JASPER: Judge, before we break, I just wanted to confirm for the reporter that we are still getting the E-Scripts the next day?

THE COURT: Yes. Yes, you are.

MR. JASPER: Okay, thank you.

(Continued on following page with AFTERNOON SESSION.)

AFTERNOON SESSION

(Judge DORA L. IRIZARRY enters the courtroom.)

(In open court; outside the presence of the jury.)

THE COURT: All right, let's come to order, please.

Case on trial, continued. Afternoon session. All the parties are present, except for the case agent. The defendants are all present. The jury is not present.

I just wanted to let the parties know that of the prospective jurors who were questioned yesterday and told to return today, numbers 70 and 84 are still not here. As I mentioned to you earlier, I think we were just discussing some logistics off the record, the jury clerk always tells them to come an hour early; so, we don't know. The jury clerk has been reaching out and trying to find them.

We have outside the jurors from this morning and we do have the jurors downstairs from yesterday afternoon. I was going tell the jury clerk to bring them all up here regardless of the ones who are not here.

Are the parties okay with that?

ALL: Yes.

THE COURT: We can start seating them and see what happens in the interim. That is going to take a while anyway.

Is that okay with everyone?

ALL: Yes, Your Honor, thank you.

THE COURT: Okay.

THE COURTROOM CLERK: Judge, 70 and 84 are here.

THE COURT: Thank you, tell the parties.

(Prospective Jurors enter.)

THE COURT: Welcome back, ladies and gentlemen.

Once again, your seats are going to be changing. We are going to seat you in number order beginning with the front row here and we are going to fill the jury box. Then, as we did yesterday and earlier this morning, we are going to start filling the rows, the ones we have in the well and then moving back.

So again, just listen very carefully for your name and just be careful with the steps as you are coming in.

THE COURTROOM CLERK: Juror Number One, Number Four, Number Six, Number Seven, Number Ten, Number 18.

The second row will be 21, 23, 33, 35, 36 and 39.

And then 41 will be in the first seat in the third row, 43, 46, 48, 49 and 52.

The last row in the jury box starts with 53, 54, 56, 60, 61, and 64.

Is 64 here? 64, oh, okay. Do you need any help, sir?

THE PROSPECTIVE JUROR: No, I've got it.

THE COURT: Watch those little steps there, please, be careful.

THE COURTROOM CLERK: Okay. And now, in this row we'll do 70, 77 and 84.

And then over here 90, 100 and 105.

And now the second row 121, 128, 136, 139, 144, and 158.

And now in this row starting with the aisle 176, 177, 178, 179, 223 and 225.

And then I guess we'll -- should we use this back row, Judge?

THE COURT: Yes.

THE COURTROOM CLERK: Okay, 240, 246, 251 and 254.

Thank you.

THE COURT: Actually, in that other row, who do we have in the back there? So, 240 and 246, if you can move closer to the edge, we can see you a little bit better that way. Perfect, thank you.

So, what we are going to do next is have the opportunity for the parties to see all of you together and I am going to give them some time to consider their decisions as to who will stay and who will go. Before they start that process, I am going to ask to see the attorneys please, on the side with the reporter.

(Continued on following page.)

(Side bar.)

THE COURT: Juror number four, if you will recall, she was the lady whose husband was getting daily radiation treatment.

MR. RUSSELL: Yes.

THE COURT: She mentioned to my deputy that her availability has changed since yesterday. So that's one issue. I thought maybe we could bring her up privately before you all start making your decisions and find out what that is.

I am really hoping that her husband has not taken some turn for the worse; but that seemed to be the only thing that might impact her availability.

There is still the issue of juror number 48, who had those scheduling issues that came up suddenly yesterday and who showed up here and disregarded the signs and entered the courtroom. If you wanted to follow up with that as well?

I would like to know personally why numbers 70 and 84 were so woefully late.

THE CLERK: They went to the ceremonial courtroom by mistake. Nobody was there.

THE COURT: All right. So we can excuse that. They will have more explicit instructions anyway moving forward.

I think those were the only issues.

THE LAW CLERK: Just the woman who wasn't sure about her employment paying. She didn't ask.

THE COURT: What number?

MR. RINALDO: 21.

THE COURT: Did you want to bring her up too and find out?

MR. RUSSELL: I would want to know. If she has a financial hardship, we need to recognize that.

THE COURT: Okay. Let's start then number four.

(Open court.)

THE COURT: Juror number four, can you come up, please?

(Juror joins side bar.)

THE COURT: I understand that something has happened with respect to your availability.

THE PROSPECTIVE JUROR: Yes, two things.

I got an email from my sister that she and her husband are coming to visit for a week in the middle of July, from Las Vegas, where they live.

And the second thing is, my husband met with the radiology doctor yesterday and he told him that he shouldn't be fooled, that he feels so well now, because the treatment is cumulative and it's low dose radiation but it is cumulative and I really feel I have to be available.

THE COURT: Okay. We understand.

THE PROSPECTIVE JUROR: Thank you.

THE COURT: We understand.

THE PROSPECTIVE JUROR: Thanks very much.

THE COURT: Have a seat.

THE PROSPECTIVE JUROR: Okay. Thank you.

(Juror leaves side bar.)

THE COURT: Shall we let her go?

MR. HERMAN: Yes.

MR. AMATRUDA: Yes.

THE COURT: Okay.

(Open court.)

THE COURT: Juror number 48.

(Juror joins side bar.)

THE COURT: If you could step up and around this way, please?

Thank you.

You had some issues apparently you wanted to raise yesterday after we were done.

THE PROSPECTIVE JUROR: Yes.

THE COURT: What's the story?

THE PROSPECTIVE JUROR: I have to bring up that July 8, 14 and 15, I have to go on vacation. So prior to coming here June 9th I --

THE COURT: June when?

THE PROSPECTIVE JUROR: June 8, 14 and 15.

THE COURT: July 8th?

THE PROSPECTIVE JUROR: July 8, 14 and 15, I have put for vacation because July 8th is my daughter's birthday and 14th and 15th I was having family. So I don't know if that is something that could be worked on.

THE COURT: That's all three days of trial. Why didn't you tell us this yesterday? We were talking about scheduling and specifically we were talking about scheduling with you.

THE PROSPECTIVE JUROR: Right.

THE COURT: Why didn't you raise it yesterday?

THE PROSPECTIVE JUROR: Well, it was not on the questionnaire. I didn't put --

THE COURT: No. Yesterday we were discussing with you scheduling.

THE PROSPECTIVE JUROR: Because when you asked me the questions and you moved on very quickly. I did intend to bring it up to you but it skipped my mind at that moment.

THE COURT: I also told you yesterday that this was the time for everyone to raise any issues.

So your daughter's birthday is July 8th?

THE PROSPECTIVE JUROR: Yes.

THE COURT: What are you doing on July 8th for your daughter?

THE PROSPECTIVE JUROR: I am just having something at home. And if -- if it's more the 14th and 15th.

THE COURT: What is the 14th and the 15th?

THE PROSPECTIVE JUROR: I have family in town. I have local plans. Nothing really, you know, I -- going anywhere else. It is family coming from out of town. That's the only problem. This is the only three days I had to go off in July.

August, the conference --

THE COURT: You can spend time with your family when you go home in the evening.

THE PROSPECTIVE JUROR: That's a possibility. I will not be able to join them during the daytime. That's --

THE COURT: This is part of your civic duty and this is part of your responsibility --

THE PROSPECTIVE JUROR: I understand that.

THE COURT: -- it is to do that.

THE PROSPECTIVE JUROR: It was a concern. I just wanted to bring it up to you.

THE COURT: You didn't note it on the questionnaire so I am thinking that perhaps this is something that you decided on later.

THE PROSPECTIVE JUROR: No. Actually, I did not decide later. I don't remember why I did not put it on the questionnaire. I actually had one of my staff member take a picture of my vacation request and send it to me on the phone. I don't have it with me, obviously. As proof, it is there. It was put in May.

THE COURT: Is there any other reason why you could not serve here at this point?

THE PROSPECTIVE JUROR: The only other reason I can think is that it takes me almost two hours to get here.

THE COURT: That's not an excuse. Other jurors --

THE PROSPECTIVE JUROR: That's fine.

THE COURT: -- travel just as long, if not longer, to get here.

THE PROSPECTIVE JUROR: No problem.

THE COURT: So do some of the attorneys. That's not an excuse.

THE PROSPECTIVE JUROR: No problem. If I have to be here, I have to be here.

THE COURT: Any questions?

MS. FARHADIAN: No, thank you.

MR. RINALDO: No.

THE COURT: Go back to your seat, please.

(Juror leaves side bar.)

THE COURT: Can you pull his questionnaire for me, 48?

I have to say, I am not overly sympathetic. I am really not sympathetic.

He told us he might not be available the week of the 13th. I just wanted to see what the reason was.

(Pause.)

He didn't give a reason, which is part of the reason why we brought him in. Then he also claimed he had problems sitting for a long period of time.

MR. RINALDO: I was tempted to say, Judge, in his -- no. All right.

THE COURT: Whatever. I am happy to hear anything you have to say, really.

MR. RUSSELL: Another juror is supposed to check with their employer.

MS. FARHADIAN: She is coming up.

THE COURT: I called them out of order.

Anyway, what do you all think, my feelings aside?

MR. JASPER: I totally understand where you are coming from. The only problem is that when you have somebody who is coming up with all of these late in the day excuses, he really doesn't want to serve, it just makes me nervous in terms of having him sit. I hate to reward that kind of behavior, but it does trouble me, that he's going to these lengths to try and wiggle out.

THE COURT: He can travel two hours a day every day and come and sit for jury service down in the jury clerk's office.

MR. RUSSELL: That would be fine by us.

THE COURT: Until Monday.

MR. RUSSELL: As long as he is not sitting here.

MS. FARHADIAN: Respectfully --

THE COURT: I have done this with other jurors in the past.

MS. FARHADIAN: I think that's a good second choice. But we -- I think he can serve. Some people are more outspoken than others about their resentment. But I think we have to just evaluate the claims he's making on their face. It is his daughter's birthday. He can serve on his daughter's birthday. Those other two days he can spend time with his family.

In the end, for everything that he has said, he started today by saying that conference in August is not happening. So it's now just about those three days, which I think in the world of hardships that these other people are going to endure are actually not that serious and don't rise to the level of a cause strike.

THE COURT: I understand defense counsels' concern in the case. Every criminal case is important, obviously, but in a criminal case like this, where the stakes are really much more exceptionally high than the average case, if we can put it in a perspective of sorts, I think that is troubling.

I am troubled by the fact that he couldn't follow simple instructions of not coming into the courtroom despite the fact that there were signs and there were warnings and I gave warnings yesterday after the issue with juror number 20, I think it was, and I gave them explicit instructions. That's a concern, an ability to follow simple instructions, and then coming up with excuses and not serving is disturbing.

By the same token, in terms of impressing upon him the importance of not shirking his responsibility and maybe he'll think about it twice, then it's a very simple thing for me to have the jury clerk make him come in at least until the end of this week.

MS. FARHADIAN: May I ask your indulgence just to speak with Mr. Amatruda for one moment before we close this conversation?

THE COURT: Absolutely. Go right ahead.

(Pause.)

MS. FARHADIAN: Your Honor, I just want to raise an issue. Now that number four has left, if number 21 also cannot sit and number 48 is excused, I don't believe we will have enough jurors.

THE COURT: I think we will have just the 43.

THE LAW CLERK: Right now we have 46. If those three are gone, that's --

THE COURT: Then you have 43.

THE LAW CLERK: That's enough. Then we can't strike anymore.

THE COURT: The bottom line is, we have more jurors that are coming back, that can come back tomorrow.

MR. RUSSELL: I am not condoning what 48 has said but I think it would be easier for him to come up here and say the conference I spoke about the other week, I am actually on that conference. The fact that he said I am not on that conference here is my concern, shows some veracity. It may be misplaced. It may be untimely and it may actually be that he forgot and all those things rack up to a person maybe we don't want to sit because he can't follow instructions. He comes in and says in August, the conference I am not going to the conference, but here are my issues.

I think the Court should take that into consideration.

MR. RINALDO: Judge, I have to say something. I want to speak in his defense. I think he said that he had those three days booked and they were booked in his -- whatever they are locked in at. He neglected to put them on the -- in the questionnaire.

If you take him at his word, had he remembered as booked vacation, it probably just wouldn't even come up. So if you take him at his word that he had that booked and just neglected to put it down and then it came to him yesterday when he was -- I don't know. Cut him some slack on that.

THE COURT: All right. We will excuse him for cause, number 48, on the defense.

MS. FARHADIAN: 48?

MR. RUSSELL: 48.

THE COURT: Let's go now 21, very quickly.

(In open court.)

THE COURT: Number 21.

(Juror joins side bar.)

THE COURT: Did you call your employer to find out whether he pays for jury duty?

THE PROSPECTIVE JUROR: No, I didn't call.

THE COURT: Why not?

THE PROSPECTIVE JUROR: Because first time I came here first, I had the paper that I am on the jury duty. Because my supervisor told me with the paper they pay you.

THE COURT: So he said he has to pay you?

THE PROSPECTIVE JUROR: Yes, first he told me. I don't know if continued they will pay me or not. That I don't know. I am not sure about that.

THE COURT: No. She said that if you bring the paper showing that you are doing jury duty, they have to pay you?

THE PROSPECTIVE JUROR: Yes.

THE COURT: Okay.

THE PROSPECTIVE JUROR: The first day they told me.

THE COURT: But you didn't call her to find out?

THE PROSPECTIVE JUROR: Today, I didn't call.

THE COURT: Even though you had to come back here today?

THE PROSPECTIVE JUROR: Because I called last night that I be here today and left the message to my supervisor. Jury duty called me again and I am not at work today. Last night I called them.

THE COURT: But you didn't call them this morning to find out if you got paid?

THE PROSPECTIVE JUROR: No.

THE COURT: It didn't concern you?

THE PROSPECTIVE JUROR: They told me that they will pay me first day. When I was here first day, they told me.

THE COURT: Okay. The question is, are they going to pay you for every day that you sit on the jury?

THE PROSPECTIVE JUROR: That I am not sure.

THE COURT: You didn't ask them?

THE PROSPECTIVE JUROR: No, I didn't ask them.

THE COURT: Why not?

THE PROSPECTIVE JUROR: Because I was not selected.

THE COURT: Doesn't that bother you?

THE PROSPECTIVE JUROR: Yes, but I didn't ask them now when I was in lunch break.

THE COURT: You didn't think that when we told you you had to come back, that there is a possibility that you may be picked to serve here and sit here until the middle of August and that was not important?

THE PROSPECTIVE JUROR: That is important.

I think they will pay me. If they don't pay they will have to tell me that and send me the fact that you are on jury duty, they call you for jury duty. I sent fax to them first day.

THE COURT: Understand if you are picked to serve on this jury, I am not going to excuse you later on if it turns out that they are not paying you.

THE PROSPECTIVE JUROR: I am not sure. I would go out and call them and come back again. I am not sure.

THE COURT: All right. Why don't you have a seat?

THE PROSPECTIVE JUROR: Okay. Thank you very much.

(Juror leaves side bar.)

THE COURT: Counsel?

I need to tell the jury clerk if we need to bring in any of the other jurors like within the next ten minutes.

MR. HERMAN: It strikes me, there is a certain kind of low wage worker, they don't want to tell their employer I might not be showing up. They kind of like don't. They kind of ignore it.

THE COURT: Can I have her questionnaire, number 21?

MS. FARHADIAN: Your Honor, can we give her access to a phone?

THE CLERK: I was going to suggest that. We can bring her to the robing room and have her call.

THE COURT: We can do that.

We also need to let the jury clerk know if we have to bring in anybody else.

Why don't we do that?

THE CLERK: Bring her to the robing room?

THE COURT: Yes.

Do you have the key?

THE CLERK: Yes.

THE COURT: Okay.

MS. FARHADIAN: Does she work for a government agency?

THE COURT: Hold on a second.

MS. FARHADIAN: I don't think it was so clear from the questionnaire.

THE LAW CLERK: An HIV AIDS caseworker.

MS. FARHADIAN: She moved to a different agency. Let me look at my notes too.

THE COURT: She is a home health aide.

MS. FARHADIAN: I think in --

THE COURT: Not all home health aids get paid if they don't show up.

MR. RUSSELL: If they don't show up, they don't get paid.

MR. RINALDO: If we lose her --

THE COURT: If we lose her we are still okay.

MR. RINALDO: If we lose her, is there anybody else?

MR. RUSSELL: No.
MR. RINALDO: We are still okay then?
THE COURT: Right. We have 43.
The question is, do we want to have the jury clerk bring in any more jurors tomorrow?
MR. RINALDO: No.
MS. FARHADIAN: Not if we have enough to do our peremptories today.
THE COURT: If we let these three go, we have 43. That's it, basic.
MS. FARHADIAN: Okay. I think our preference is not to let her go unless we get an answer.
THE COURT: All right. We are wasting time. Let's have her call her employer.
THE CLERK: Okay. Do you want to call her up?
THE COURT: We are going to give her access to my robing room.
MR. RINALDO: Let's say she makes her phone call and lose her here. We can't lose anybody else. Nobody else raised anything. That's it.
THE COURT: Right.
MR. RINALDO: We are okay.
MS. FARHADIAN: We will just do it -- do our strikes now.
MR. RINALDO: I will do whatever you want me to do.

THE COURT: My only concern is making sure that we don't lose any more jurors or the opportunity of bringing any more jurors in for tomorrow. We do need to let the jury clerk know now in another five minutes.

MR. JASPER: Let's play it safe and just have them -- I understand your concern. We can just play it safe and have them --

THE COURT: We could also do that. We can always bring them in tomorrow morning and then just excuse them.

MR. RUSSELL: Right.

MS. FARHADIAN: They will be happy to be excused.

MR. RINALDO: We won't be here but they can be excused.

THE COURT: Right.

MR. RUSSELL: That too, I guess.

MR. RINALDO: Yes. If we get the jury, we are trying to avoid coming back again tomorrow. We should finish today. If we finish today.

THE COURT: It's more than that. It's how many jurors would be coming back?

THE LAW CLERK: 40.

THE COURT: Forty, 40 times $40 a day. That's $1,600 out of the jury budget that just barely got authorized.

MR. RINALDO: I think we are okay.

MR. AMATRUDA: Isn't the risk whether between when we exercise our strikes and then -- and between now and when we exercise our strikes if we lose somebody? That's the risk, right? Once we exercise our strikes, then we have the jury. They are gone.

THE COURT: They are gone.

MR. AMATRUDA: We can't --

MR. RINALDO: We can't lose anybody else. Nobody else is on the list.

MR. AMATRUDA: We are talking about half an hour, when somebody might --

(Continued on next page.)

(Sidebar.)

MR. AMATRUDA: All I was going to say, that the only risk we're running by not calling jurors back is, we're going to lose somebody between now and the next half hour when we exercise our strikes, because once we exercise our strikes, your Honor is going to let them go, anyway, so we're done for the day. That's really the only risk there.

I don't see that window as being that much of a risk, given the extensive voir dire your Honor has conducted so far and how thorough we have been. Rather than spending the expense of bringing in more jurors, we should just do our strikes, and we'll have our jury.

Can I just excuse myself?

THE COURT: Sure.

THE CLERK: She doesn't have her phone number at all. She was in the robing room for quite a while and thought she had it in her bag, but she doesn't.

MR. RINALDO: Just let her sit there.

THE COURT: You want to consent to let her go?

MS. FARHADIAN: I'm sorry. I don't. They are saying let her sit. Maybe we have an agreement.

THE COURT: I agree. I don't get that. How do you not know your job phone number?

MS. FARHADIAN: It seems we're more worried about it than she is.

THE COURT: I'm going to let 48 go now, and Four go now.

My courtroom deputy makes a good point. Let's let them sit here instead of doing it piecemeal, so other people don't start getting ideas.

MS. FARHADIAN: So we just know for ourselves.

THE COURT: After spending time in the robing room, she says she doesn't have the number to her employer. Everybody sort of agrees to let her stay?

MR. AMATRUDA: Okay.

THE COURT: Okay.

(In open court.)

THE COURT: Ten minutes.

MR. HERMAN: Yes, your Honor.

THE COURT: Let me know when you are ready.

(Pause.)

MR. AMATRUDA: May we come up, your Honor?

THE COURT: Yes.

(Sidebar.)

THE COURT: Counsel, as you recall, I gave each side an extra peremptory, one for each defendant, one for the government. Those have been tacked on for round seven.

At this point, I leave it to my trusted deputy.

THE CLERK: Usually, six rounds, but in this case, there are seven. Usually, how we proceed, in round one, the government goes first with one pick, the defense goes with two.

Round two starts the defense, two picks, the government one.

Round three starts with the government, one pick, the defense has two.

Round four starts with the defense, two challenges, government one.

Round five starts with the government, one challenge, the defense jointly has one.

Round six, defense starts with one challenge and the government has one.

And then in round seven, the government starts with one and the defense has one.

MR. RUSSELL: Round one, again, is what?

THE CLERK: The government starts with one challenge and then the defendants have two.

MR. RUSSELL: Round two, you reverse it?

THE CLERK: It's always reversed. Whoever picks last picks first in the next round. The defense challenges, as I stated, are joint defense challenges.

MS. FARHADIAN: That only gives them eleven. Should they have twelve?

THE CLERK: I'm sorry. Then, I misunderstood so I apologize.

Adding an extra defense challenge to round five or any of the next rounds.

MR. RUSSELL: It makes sense to do it at five rather than seven.

THE CLERK: Okay. My apologies.

So, round one, the government.

MS. FARHADIAN: We challenge No. 23.

THE CLERK: Defense, you're first.

MR. RINALDO: Jurors No. One and No. Six.

THE CLERK: Round two, the defense. You have two challenges.

MR. RINALDO: No. 18 and No. 33.

THE CLERK: The government.

MS. FARHADIAN: No. 49.

THE CLERK: You go again, round three.

MS. FARHADIAN: We challenge No. 52.

THE CLERK: Defendants, two challenges.

MR. RINALDO: Jurors No. 46 and No. 56.

THE CLERK: You start round four with two challenges. Defense, jointly.

MR. RINALDO: 21 and 60.

THE CLERK: The government.

MS. FARHADIAN: We're in round four?

THE CLERK: Yes.

MS. FARHADIAN: We strike No. 105.

THE CLERK: Round five, you go again.

MS. FARHADIAN: No. 43.

THE CLERK: We're still in round five. The defendants have two challenges.

MR. RINALDO: 61 and 90.

THE CLERK: You start round six with one challenge.

MR. RINALDO: 100.

THE CLERK: The government.

MS. FARHADIAN: This is round six, we challenge No. 77.

THE CLERK: One more.

MS. FARHADIAN: Round seven, we do No. 70.

MR. RUSSELL: One moment.

THE CLERK: The defense has one challenge.

MR. RINALDO: 178.

MS. FARHADIAN: That's from the alternates pool.

THE CLERK: I'm sorry.

MS. FARHADIAN: I think you want to strike from the jury pool.

THE CLERK: My apologies.

MR. RUSSELL: One moment, your Honor.

(Pause.)

MR. RINALDO: We're ready.

THE COURT: Round seven for the defense.

MR. RINALDO: 84.

THE CLERK: Okay.

Alternate rounds, the defense starts. The defense has one pick. Round one alternate.

MR. RINALDO: 178.

MS. FARHADIAN: We strike 144.

THE CLERK: Now, your second one.

MS. FARHADIAN: We strike 158.

MR. RINALDO: 251.

THE CLERK: 251.

Now, you have your last.

MR. RUSSELL: One moment, your Honor.

(Pause.)

MR. RINALDO: We're ready, Judge.

246.

THE CLERK: 246.

And the government is last.

MS. FARHADIAN: We strike 179.

(Pause.)

(Continued on next page.)

(CONTINUING)

THE COURT: Ladies and gentlemen, you cannot just walk out of here unless I know that you are walking out. I just saw somebody walk out. That is just going to delay us.

(Side-bar conference held on the record out of the hearing of the jury.)

(Side-bar.)

THE COURT: We just want to make sure that we are all on the same page as to the jurors who are staying, okay?

ALL: Yes.

THE COURTROOM DEPUTY: Juror Number One is 7.

Number two is 10.

Number three is 35.

Number four is 36.

Number five is 39.

Number six is 41.

Number seven is 53.

Number eight is 54.

Number nine is 64.

Ten is 121.

11 is 128.

12 is 136.

Alternate one is 139.

Alternate two, 176.

Alternate three, 177.

Alternate four, 223.

Alternate five, 225.

Alternate six, 240.

ALL: Yes.

THE COURT: We agree.

So now, we've got that juror who just walked out. What we are going to do is I will have my deputy call out of numbers of the jurors who are going to stay and then everybody else can go.

ALL: Okay.

THE COURT: Then we can give them follow-up instructions once everybody is gone.

ALL: Thank you.

(Side-bar end.)

(In open court.)

THE COURT: All right, ladies and gentlemen, I want you to listen very carefully.

My deputy is going to call out the numbers of the jurors who have been selected to serve on this jury. If your number is called, please remain seated, all right? I am going to ask everyone to remain seated until we finish calling the numbers of all of the jurors who are going to remain on this case. If your number is called, once we get done, please remain seated. If your number is not called, you are being excused from this case, you do not have to come back tomorrow, okay?

All right, so be careful and listen to numbers as they are being called by my deputy.

THE COURTROOM DEPUTY: Number 7, will be Juror Number One.

Number 10 will be Juror Number Two.

Number 35 will be Juror Number Three.

Number 36 will be Juror Number Four.

Number 39 will be Juror Number Five.

Number 41 will be Juror Number Six.

Number 53 will be Juror Number Seven.

Number 54 will be Juror Number Eight.

Number 64 will be Juror Number Nine.

Number 121 will be Juror Number Ten.

Number 128 will be Juror Number 11.

Number 136 will be Juror Number 12.

Number 139 will be Alternate Juror Number One.

Number 176 will be Alternate Juror Number Two.

Number 177 will be Alternate Juror Number Three.

Number 223 will be Alternate Juror Number Four.

Number 225 will be Alternate Juror Number Five.

Number 240 will be Alternate Juror Number Six.

THE COURT: So again, if your number has been called, please remain seated. The rest of you, if your number was not called, you are excused. You may go home or go to work or do whatever it is that you want to do and you have the thanks of the Court, you have the thanks of all of the parties for all of your time and consideration.

Make sure that you take all of your belongings with you when you leave.

Thank you, you can leave the Court now. If your number was called, please remain seated.

(Prospective jurors excused.)

THE COURT: My deputy is going to call your number and is going to instruct you as to where to sit. The seating is going to change now and again, we are all going to refer to you by a number so now you're getting a brand new number, okay? It goes according to the seat number and it will be in the jury box. We are going to get rid of this row in the front. For now, you can stay there until we actually seat everybody in their proper seats.

(Jurors seated.)

THE COURT: All right, ladies and gentlemen, these are going to be the seats, your seats, for the duration of the trial, okay? Your seat number will be your juror number except for our alternates. So, it will be alternate one, alternate two, alternate three, alternate four, five, and six. For now, you do not have to come back tomorrow, tomorrow is Wednesday?

THE JURY: Yes.

THE COURT: And Thursday. You do not have to come back here tomorrow or on Thursday and of course, as I told you, we will not be sitting on Fridays.

So, we are expecting to start with some preliminary instructions from me on Monday morning. We are asking you to come back here at 9:30 in the morning and you are going to get instructions as to where to report and all of those things in just a few minutes, we are going to take you to the back, to the jury room, and you will see where the jury room is and you will get further instructions as to where to report and so on, on Monday morning.

It is very, very important that you be on time and that you take into account traffic, this is New York. You know if you're going on public transportation, it happens. It happens to me, too, I ride the trains just like everybody else, okay. So, do take that into account because if even one of you is missing, that's it, we can't go forward until we have that juror here.

I ride the lawyers pretty hard and they know that they have to be here on time and they are going to do their best to make sure that the trial flows in an orderly way. Sometimes there may be some waiting on your part; trust that we are working to try to streamline things to make sure once you are here your time is used to maximum efficiency. We recognize what a big sacrifice it is for all of you, your families and your employers.

So again, it is very important that you not discuss anything at all about this case thus far, keep in mind you haven't heard any evidence at all, you haven't heard any instructions from me, you haven't been told by me that you can talk about the case. This includes the jury selection process and you are not to discuss anything with anybody close to you, anyone at all, not your friends, families, no one.

Do not do any research or read about or do any kind of investigation about anything connected with this case or any of the parties connected with this case or even anything such as the subject of criminal trials generally, all right?

Again, keep in mind that I have told the parties not to have any kind of contact with you. There is the reverse side of that coin and I am going ask you to do the same.

Please, have a very safe 4th of July. We want all of you back here safe and sound on Monday at which time we are expecting to begin, as I said, with some preliminary instructions that I am going to give to you about trials generally and about evidence generally to kind of help you follow the trial along.

You will hear opening statements, the defendants may open if they wish, they don't have to. If they don't, I will instruct about that as well, and then we will begin with the taking of evidence.

So for those of you, and I don't remember now off top of my head because we saw people in different groups, you know if you are diabetic, if you have any kind of health issues, if you have any medications you are supposed to take during the day or you need to bring snacks with you, you will see in the jury room that we have a refrigerator, we can refrigerate that or you can store it there. If you have your favorite kind of tea you want to bring you can make tea and have that there as we well. We try to supply coffee and things like that for you.

We provide water for you and I don't mind if you bring bottles of water into the jury room. To keep things clean we try to limit it to water. If you want to bring snacks, those of you especially who have dietary needs, bring them. We are going to take breaks during the day, as I said before.

So, have a very safe and enjoyable 4th of July holiday and we'll see you Monday at 9:30.

Thank you.

THE JURY: Thank you.

(Jury exits.)

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(In open court; outside the presence of the jury.)

THE COURT: Thank you everybody, you can have a seat. The jury is no longer present.

Is there anything last-minute that the parties want to address before we resume again on Monday?

MR. RUSSELL: Yes, Your Honor; as to the jurors no, but I'm just trying to get some guidance as to one issue.

The Government has submitted to us their rendition of the tape in reference to what they perceive the tape actually says. We, prior to this, submitted sentences or phrases that we thought we heard that were different. We submitted that to the Government.

THE COURT: You are talking about the MDC tape?

MR. RUSSELL: Right.

The Government, I guess, re-listened to the tape, there were plenty of areas that they agreed with, but there were several areas that they disagreed with and we just need some, I guess, some education from the Court as to how the Court wants to proceed.

We know the tape is the best evidence in and of itself. We know the jurors are going to read along with the transcript, but along with the he edits as far as what we think was said or how does the Court want to go about that?

THE COURT: In the first place, once again, here we are at the 11th hour. I thought I made it clear very early on, months ago, that if there were any issues about tapes and transcripts, that that had to be resolved early and here we are having selected the jury -- they haven't been sworn yet, they will be sworn on Monday -- and we're dealing with these kinds of 11th hour issues.

These should have been finalized and done a long time ago and if there were issues, we had pre-trial conferences, we had plenty of conferences before this today that I could have addressed this, instead of at 4:30 in the afternoon after we finished jury selection.

MR. RUSSELL: As to those edits, Your Honor, we received the Government's errata sheet, if I can call it that, either late Friday or Saturday.

THE COURT: I don't really care whose fault it is. I really don't. And the Government has had this tape for a long time.

During motion practice it was pretty darn clear that this was an important tape. It was discussed in the motion practice, so I don't understand why this transcript and these tapes have not been turned over months ago and why this wasn't cleared up months ago.

MR. RUSSELL: The only reason I bring it up is if we thought that we heard something different, we would submit it, and then it's submitted until we hear otherwise. Otherwise, there is no issue at hand.

THE COURT: So now in the next two days, instead of my doing the other things that I thought that I was going to be doing in connection with other matters that I have to attend to that apparently these lawyers here do not give a darn about, I have to sit there and listen to the tape and listen to the difference and look at the different versus versions of the transcript and make a determination.

How long is this conversation?

(Continued on following page.)

MR. AMATRUDA: Your Honor, I think, if -- I am pretty sure that we -- that we -- the disagreements are as to -- I think it's really just a couple of words, honestly. Unless I am mistaken. I think it's maybe two or three lines on the tape, where there is a specific word here or there that we disagree with.

That said, our -- our -- respectfully, our position on this is that the transcript isn't going in as evidence. The tape is the evidence. The defense can --

THE COURT: The tape has to be accurate if you are going to use it as an aid.

MR. AMATRUDA: Your Honor --

THE COURT: The transcripts are provided to the jury to be an aid to help them follow along the tape. That's normally how it is done. An instruction will be given to the jury admonishing them that the transcript is not evidence, that the evidence is the tape.

Notwithstanding that though the transcript has to be accurate.

MR. HERMAN: Judge, the -- the tape is over two hours. The transcript is about 120 pages. There is substantial agreement and we are not certainly asking Your Honor to listen to two hours. There are probably three or four minutes where it's a couple of words that are disputed. We have tried. We have gone back and forth and the government has agreed with probably 95 percent of what we say we hear.

But there are some words that there is a disagreement about. So either we can provide the jury with a transcript which has -- in certain sections different versions, just a couple of words different. That would be one possibility.

I am frankly not even sure if Your Honor listened to it ten times whether Your Honor could determine -- the tape is faint. Sometimes people use jargon. They talk over each other. It is a body wire.

I don't think the defense and the government could actually agree on what -- on very specific sections what is being said. That's the dilemma that we are in, Judge.

MR. RINALDO: Judge, just to put a fine point on it. There is a 118 page transcript and the notes that we made are contained on about seven or eight pages. In that seven or eight pages of our notes as to where we agree and disagree, I think there are only 20 specific instances of a disagreement as to a word or two.

So we are talking about over 118 pages, 20 examples of a word or two on a page or over a number of pages.

So it's not a -- I don't know how to say it. It wouldn't be a tremendous undertaking to have a transcript -- that was I think what Mr. Russell was going at. How we are going to have one transcript or one transcript that has one possible setting and the other words --

THE COURT: How in the world is a juror supposed to sit there with two different transcripts and listen to a tape?

MR. RINALDO: No. I guess what I am saying, to be one transcript and in those particular spots there would be a notation of some kind. I am only trying to come up with a way that we could resolve this issue without having to -- I mean, Mr. Herman is right. We cannot guarantee that anyone can sit down and listen and come up exactly. There is going to be unintelligible and there is going to be disputes over a couple of words. We are just trying to figure out a way how to deal with that.

MR. AMATRUDA: Your Honor, maybe I could --

THE COURT: I would like to know for the life of me, Mr. Amatruda, why it is that this is coming up now. It's bad enough that you dump a motion in limine last week at the eleventh hour. But why this is being dumped now and not having been done previously? Give me one reason. Because I sure as hell did not hear a reason why we got this last minute motion in limine last week.

MR. AMATRUDA: Your Honor, we were -- we had some proposed revisions. Some of the things we ran by the witness who was present in the case. In other instances, we were --

THE COURT: You knew about this tape -- first of all, when it was made, when it was made. That was in the hands of the government.

You knew that this was an important piece of evidence when the motion practice was made and the motion to suppress this tape was made, months ago.

In order for the parties to know what they were talking about in the motions, this had to be -- to have been known months ago. The motion could have been made months ago when I set a date for oral argument or hearing on the motions that I set aside time for this case, a whole day for this case, that we could have had a hearing on this issue.

Why was this not done months ago?

MR. AMATRUDA: Well, Your Honor, we -- we proposed the tape. The defense proposed some changes.

THE COURT: When did you propose the transcripts?

MR. AMATRUDA: Well, Your Honor, the -- I don't remember the date we proposed the transcripts. I know that we did receive the comments from the defendants, either at the end of May or beginning of June, and during that time that's --

THE COURT: You know what, the motions were done months before that, months before that.

MR. AMATRUDA: But this isn't a motion. This wasn't a motion.

THE COURT: No. But I told you that if there were going to be transcripts and there were going to be issues about the transcripts and any audibility issues about any tapes, that that had to be addressed long before we actually got started with the trial. The trial is underway, as far as I am concerned.

You all have to come here at 9:30 tomorrow morning, bring the tape, bring the copies of the transcripts, the two sets of, or I don't know how many sets of proposed transcripts -- does the defense have one joint --

MR. RINALDO: Yes, Judge.

THE COURT: -- transcript?

MR. RINALDO: Yes. We don't have the transcript, Judge. We have our suggestions as to the changes in the original drafts that we were given by the government.

THE COURT: What I mean is, are the changes jointly proposed by the defendants?

MR. RINALDO: Yes.

MR. RUSSELL: There is one transcript that has the changes that the government assented to. In that transcript it has the section that says where they disagree. Like line 18 of page 121, it will say in the paragraph we disagree. So that's what the transcript looks like.

THE COURT: We disagree and it says what? This is what it says?

MR. RUSSELL: It says, what is purportedly the original transcription and then next to it it says, we disagree.

THE COURT: And what do you say it says?

MR. RUSSELL: Well, I mean, for our side of the errata sheet, we have one disagreement in reference to all of the changes.

THE COURT: It is a very -- you people just love to complicate things. It's a very simple question. The government has the transcript. It says, I went to the store on Monday. It then says, the defense says, I disagree. Then does it say, I went to the store on Tuesday?

MR. RUSSELL: Your Honor, the disagreement is between the word full and the word for, and then on one iteration is, they thought that the transcription is unintelligible and we have it down, looking for luck.

THE COURT: All right. Tomorrow you will have -- I want a set of -- a copy of the transcript sent to my chambers tonight. Tomorrow morning you will all be here at 9:30 in the morning. Be prepared to play the tape and we will play those portions that are in disagreement. Make sure you cue up the tape to where there is disagreement.

I really hope there are no more surprises.

MR. AMATRUDA: Judge, there is another issue that I need to raise. That has to do with -- we were informed by the defense that they -- that they want us to play the entire -- they want the entire tape admitted into evidence. We had proposed some redactions to the tape based on anticipated legal objections to admissibility of certain things.

For example, on the tape, Mr. Pinkney says -- on the tape Mr. Pinkney says that he killed someone on Staten Island. He says that he's a Crips member. He says that he committed several robberies. He also discusses the shooting that he was a victim of by Shaun Taylor when Shaun Taylor shot him.

We just wanted to make it clear in open court that obviously in our view there are certain -- that that's a big decision, that both Mr. Pinkney and Mr. Taylor need to make and that they have -- you know, if we had tried to play it, they would have had a right to challenge certain things under Rule 404(b) of the Federal Rules of Evidence, under certain parts of the hearsay rules, and so I just want it to be clear that this is what these defendants want to happen.

THE COURT: So that I understand this, the defendants jointly want to play the entire tape?

MR. RINALDO: Judge, that's -- from the defendant Taylor's point of view, Judge, that's what we decided to request.

We made a motion for severance based on certain legal factors. That motion was denied. Since we do not have a severance at this point, we would like the entire tape to be played. I'm certainly -- if there were any objections, any legal objection we had, we could raise that but we -- in lieu of raising any objection to some language that might be inadmissible or that we could ask to have stricken, we are not seeking that. We think it's in the interests of our client that the whole tape, that the tape be played in its entirety for the jury to hear.

THE COURT: Again, didn't the defense seek this remedy earlier?

MR. RINALDO: Well, Judge, we discussed it with the government. Before we ever got to discussing it with the government, we did want to consult with cocounsel and our client and arrive --

THE COURT: This tape has been around for so long, for crying out loud.

MR. RINALDO: We got a --

THE COURT: All of you, I don't understand this.

MR. RINALDO: Judge, we got a transcript of the tape on -- the first time we saw a draft transcript was April 24th. So that's -- that's the timeframe we are starting from. April -- we had a tape that we could listen to and a lot of unintelligible.

THE COURT: That's still two months from April.

MR. RINALDO: What we did, Judge, during that period of time, we looked at the transcript. We discussed it with cocounsel.

THE COURT: Motions were already decided by April.

I don't understand why any of this, including the making of the transcript, which is on the government's fault, okay, why that was not done way in advance of April.

Taylor wants the whole thing played.

What is the position of Pinkney?

MR. RUSSELL: Your Honor, as to -- obviously as to the uncharged crime that is -- that is elicited in the tape, obviously we are against that. We object to that. As far as our motion papers, either prior to the tape or having the tape, our objections are clear as to certain conduct for which Pinkney is not being charged for.

That is our position.

THE COURT: So --

MR. RUSSELL: And I know it's not to the Court's liking in that we haven't come up with an ultimate decision or remedy to present to the Court but we have been working with the government in that vein just like with the edits as far as what the transcript purports to or what the tape purports to actually say in trying to resolve it.

MR. AMATRUDA: Your Honor, it seems that I -- we had a different understanding of what Mr. Pinkney was asking for when he told us about playing the whole tape. I think that what would probably make sense at this point is if we are going to be back here tomorrow for us to talk.

Again, our redactions left out most of these or all of these uncharged crimes. So it seems like maybe what we need to do is reclarify with defense counsel what exactly it is they want us to move into evidence.

I don't think that, with respect to the issue of playing the whole tape, I don't know that Mr. Taylor, those crimes that -- they don't really have to do with him. So I am not sure that that's really an issue with us -- with respect to him of us taking out that stuff.

THE COURT: I would like a point of clarification. What is in the transcript? Is it a transcript of the entire tape?

MR. AMATRUDA: It's the entire conversation.

THE COURT: The entire conversation unredacted?

MR. AMATRUDA: Yes, Your Honor.

And there were -- what we had submitted to you and to the defense was with highlighting what it is that we were proposing to redact on the tape.

(Continued on next page.)

THE COURT: What do you mean what you submitted to me? And it's highlighted what you want to redact?

MR. AMATRUDA: That's right, your Honor.

THE COURT: What was sent to me in chambers, is that the most updated version of the transcript after the back and forth?

MR. AMATRUDA: No, your Honor.

THE COURT: It's not. Okay. So you know what, it's bad enough that you all are making me drop everything else that I have to do to deal with this last minute request yet again. I'm not going to spin my wheels going over a transcript that the parties have already agreed is not accurate. By no later than 6:00 o'clock today I want to have a copy of an updated transcript. I want a copy of the tape. Is it on some CD form I guess?

MR. AMATRUDA: Your Honor has that.

THE COURT: Okay. And I want to make sure that the portions that the government wants to highlight are highlighted. I need a hard copy of that. You'll have to post it, docket whatever it is that I get. I need to make sure that whatever I have is highlighted.

MR. AMATRUDA: Highlighting you mean what we're proposing to redact is highlighted?

THE COURT: Correct.

And I also am going to need some sort of a cover letter that tells me what are the sections that the parties are in disagreement about that will need to be resolved tomorrow.

MR. AMATRUDA: Okay.

THE COURT: In which case be here at 10:00 o'clock, because I'm going to need time to look at this.

Is there anything else? All right. I'll see you at 10:00 o'clock.

MR. HERMAN: Judge.

THE COURT: What is it?

MR. HERMAN: Mr. Taylor's family visits are on Wednesday. If he's here tomorrow, he can't have his family visit. He may wish to waive his presence, with the Court's permission. And before he left, I wanted to put that on the record. If your Honor permits him to waive tomorrow and the lawyers will be here and resolve the issues, then he can have his family visit. I don't want him just not showing up tomorrow and there's some question as to why Mr. Taylor is not here.

THE COURT: Mr. Taylor, that's a decision that's up to you. This is an important decision that the Court has to make. You have a right to be here. Then, again, it is a purely legal decision that's going to be made. The discussion that we're going to have is purely legal. If, after you have a discussion with your attorney, you feel that you want to have your family visit tomorrow and not be here, I'm not going to hold that against you, and if you agree to waive your right to be present, then that's fine with me as long as you understand that you have an absolute right to be present for the proceedings for tomorrow. I'm hoping to address all of this tomorrow and not put it off, because this is important.

So, if you want to talk about it with your attorneys a little bit more before you decide.

MR. HERMAN: Thank you, your Honor.

(Pause.)

MR. HERMAN: Mr. Taylor, you want to waive your appearance tomorrow and stay at the jail where you can have your family visit?

DEFENDANT TAYLOR: Yes.

THE COURT: You understand perfectly that you have a right to be here?

DEFENDANT TAYLOR: Perfectly understand.

THE COURT: You have a question?

MR. RUSSELL: No. Mr. Pinkney will be here.

THE COURT: All right.

(Case adjourned to Wednesday, July 2, 2014, at 10:00 a.m.)